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THE

HISTORY

OF THE

DECLINE AND FALL

OF THE

ROMAN EMPIRE.

VOL. VIII.

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THE

HISTORY

OF THE

DECLINE AND FALL

OF THE

ROMAN EMPIRE.

By EDWARD GIBBON, Esq;

VOLUME THE EIGHTH.

A NEW EDITION.

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CHAP. XLIV.

The civil or Roman law.

THE vain titles of the victories of Juſtinian are crumbled into duſt: but the name of the legiſlator is inſcribed on a fair and everlaſting monument. Under his reign, and by his care, the civil juriſprudence was digeſted in the immor-

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tal works of the CODE, the PANDECTS, and the INSTITUTES [1]: the public reaſon of the Romans has been ſilently or ſtudiouſly transfuſed into the domeſtic inſtitutions of Europe [2], and the laws of Juſtinian ſtill command the reſpect or obedience of independent nations. Wiſe or fortunate is the prince who connects his own reputation with the honour and intereſt of a perpetual order of men. The defence of their founder is the firſt cauſe, which in every age has exerciſed the zeal and induſtry of the civilians. They piouſly commemorate his virtues; diſſemble or deny his failings; and fiercely chaſtiſe the guilt or folly of the rebels who preſume to ſully the majeſty of the purple. The idolatry of love has provoked, as it uſually happens, the rancour of oppoſition; the character of Juſtinian has been expoſed to the blind vehemence of flattery and invective, and the injuſtice of a ſect (the *Anti-Tribonians*) has refuſed all praiſe and merit to the prince, his miniſters,

[1] The civilians of the darker ages have eſtabliſhed an abſurd and incomprehenſible mode of quotation, which is ſupported by authority and cuſtom. In their references to the Code, the Pandects, and the Inſtitutes, they mention the number, not of the *book*, but only of the *law*; and content themſelves with reciting the firſt words of the *title* to which it belongs; and of theſe titles there are more than a thouſand. Ludewig (Vit. Juſtiniani, p. 268.) wiſhes to ſhake off this pedantic yoke; and I have dared to adopt the ſimple and rational method of numbering the book, the title, and the law.

[2] Germany, Bohemia, Hungary, Poland, and Scotland, have received them as common law or reaſon; in France, Italy, &c. they poſſeſs a direct or indirect influence; and they were reſpected in England, from Stephen to Edward I. our national Juſtinian (Duck. de Uſû et Auctoritate Juris Civilis, l. ii. c. 1. 8—15., Heineccius, Hiſt. Juris Germanici, c. 3, 4. N° 55—124. and the legal hiſtorians of each country).

and

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and his laws [3]. Attached to no party, intereſted only for the truth and candour of hiſtory, and directed by the moſt temperate and ſkilful guides [4], I enter with juſt diffidence on the ſubject of civil law, which has exhauſted ſo many learned lives, and clothed the walls of ſuch ſpacious libraries. In a ſingle, if poſſible, in a ſhort chapter, I ſhall trace the Roman juriſprudence from Romulus to Juſtinian [5], appreciate the labours of that emperor, and pauſe to contemplate the principles of a ſcience ſo important to the peace and happineſs of ſociety. The laws of a nation form the moſt inſtructive portion of its hiſtory; and, although I have devoted myſelf to write the annals of a declining monarchy, I ſhall embrace the occaſion to

3 Francis Hottoman, a learned and acute lawyer of the xvi^th^ century, wiſhed to mortify Cujacius and to pleaſe the Chancellor de l'Hopital. His Anti-Tribonianus (which I have never been able to procure) was publiſhed in French in 1609; and his ſect was propagated in Germany (Heineccius, Opp. tom. iii. ſylloge iii. p. 171—183.).

4 At the head of theſe guides, I ſhall reſpectfully place the learned and perſpicuous Heineccius, a German profeſſor, who died at Halle in the year 1741 (ſee his Eloge in the Nouvelle Bibliotheque Germanique, tom. ii. p. 51—64.). His ample works have been collected in eight volumes in 4^to^, Geneva, 1743—1748. The treatiſes which I have ſeparately uſed are, 1. Hiſtoria Juris Romani et Germanici, Lugd. Batav. 1740, in 8°. 2. Syntagma Antiquitatum Romanam Juriſprudentiam illuſtrantium, 2 vols. in 8°, Traject. ad Rhenum. 3. Elementa Juris Civilis ſecundum Ordinem Inſtitutionum, Lugd. Bat. 1751, in 8°. 4. Elementa J. C. ſecundum Ordinem Pandectarum, Traject. 1772, in 8°, 2 vols.

5 Our original text is a fragment de Origine Juris (Pandect. l. i. tit. ii.), of Pomponius, a Roman lawyer, who lived under the Antonines (Heinecc. tom. iii. ſyll. iii. p. 66—126.). It has been abridged, and probably corrupted, by Tribonian, and ſince reſtored by Bynkerſhoek (Opp. tom. i. p. 279—304.).

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breathe the pure and invigorating air of the republic.

Laws of the kings of Rome.

The primitive government of Rome [6] was compoſed, with ſome political ſkill, of an elective king, a council of nobles, and a general aſſembly of the people. War and religion were adminiſtered by the ſupreme magiſtrate; and he alone propoſed the laws, which were debated in the ſenate, and finally ratified or rejected by a majority of votes in the thirty *curiæ* or pariſhes of the city. Romulus, Numa, and Servius Tullius, are celebrated as the moſt ancient legiſlators; and each of them claims his peculiar part in the threefold diviſion of juriſprudence [7]. The laws of marriage, the education of children, and the authority of parents, which may ſeem to draw their origin from *nature* itſelf, are aſcribed to the untutored wiſdom of Romulus. The law of *nations* and of religious worſhip, which Numa introduced, was derived from his nocturnal converſe with the nymph Egeria. The *civil* law is attributed to the experience of Servius: he balanced the rights and fortunes of the ſeven claſſes of citizens; and guarded, by fifty new regulations, the obſervance of contracts and the puniſhment of crimes. The ſtate, which he had inclined towards a democracy, was changed by the laſt Tarquin

6 The conſtitutional hiſtory of the kings of Rome may be ſtudied in the firſt book of Livy, and more copiouſly in Dionyſius Halicarnaſſenſis (l. ii. p. 80—96. 119—130. l. iv. p. 198—220.), who ſometimes betrays the character of a rhetorician and a Greek.

7 This threefold diviſion of the law was applied to the three Roman kings by Juſtus Lipſius (Opp. tom. iv. p. 279.); is adopted by Gravina (Origines Juris Civilis, p. 28. edit. Lipſ. 1737); and is reluctantly admitted by Maſcou, his German editor.

into

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into lawleſs deſpotiſm; and when the kingly office was aboliſhed, the patricians engroſſed the benefits of freedom. The royal laws became odious or obſolete; the myſterious depoſit was ſilently preſerved by the prieſts and nobles; and, at the end of ſixty years, the citizens of Rome ſtill complained that they were ruled by the arbitrary ſentence of the magiſtrates. Yet the poſitive inſtitutions of the kings had blended themſelves with the public and private manners of the city; ſome fragments of that venerable juriſprudence [8] were compiled by the diligence of antiquarians [9], and above twenty texts ſtill ſpeak the rudeneſs of the Pelaſgic idiom of the Latins [10].

I ſhall

[8] The moſt ancient Code or Digeſt was ſtyled *Jus Papirianum*, from the firſt compiler, Papirius, who flouriſhed ſomewhat before or after the *Regifugium* (Pandect. l. i. tit. ii.). The beſt judicial critics, even Bynkerſhoek (tom. i. p. 284, 285.) and Heineccius (Hiſt. J. C. R. l. i. c. 16, 17. and Opp. tom. iii. ſylloge iv. p. 1—8.), give credit to this tale of Pomponius, without ſufficiently adverting to the value and rarity of ſuch a monument of the third century, of the *illiterate* city. I much ſuſpect that the Caius Papirius, the Pontifex Maximus, who revived the laws of Numa (Dionyſ. Hal. l. iii. p. 171.), left only an oral tradition; and that the Jus Papirianum of Granius Flaccus (Pandect. l. L. tit. xvi. leg. 144.) was not a commentary, but an original work, compiled in the time of Cæſar (Cenſorin. de Die Natali, l. iii. p. 13. Duker de Latinitate J. C. p. 157.).

[9] A pompous, though feeble attempt to reſtore the original, is made in the Hiſtoire de la Juriſprudence Romaine of Teraſſon, p. 22—72. Paris, 1750, in folio; a work of more promiſe than performance.

[10] In the year 1444, ſeven or eight tables of braſs were dug up between Cortona and Gubio. A part of theſe, for the reſt is Etruſcan, repreſents the primitive ſtate of the Pelaſgic letters and language, which are aſcribed by Herodotus to that diſtrict of Italy (l. i. c. 56, 57, 58.); though this difficult paſſage may be explained of a Creſtona in Thrace (Notes de Larcher, tom. i. p. 256—261.). The ſavage dialect of the Eugubine tables has exerciſed, and may ſtill elude, the divination of criticiſm; but the root is undoubtedly Latin, of the

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The twelve tables of the Decemvirs.

I ſhall not repeat the well-known ſtory of the Decemvirs [11], who ſullied by their actions the honour of inſcribing on braſs, or wood, or ivory, the TWELVE TABLES of the Roman laws [12]. They were dictated by the rigid and jealous ſpirit of an ariſtocracy, which had yielded with reluctance to the juſt demands of the people. But the ſubſtance of the twelve tables was adapted to the ſtate of the city; and the Romans had emerged from barbariſm, ſince they were capable of ſtudying and embracing the inſtitutions of their more enlightened neighbours. A wiſe Epheſian was driven by envy from his native country: before he could reach the ſhores of Latium, he had obſerved the various forms of human nature and civil ſociety; he imparted his knowledge to the legiſlators of Rome, and a ſtatue was erected in the forum to the perpetual memory of Hermodorus [13]. The names and

ſame age and character as the Saliare Carmen, which, in the time of Horace, none could underſtand. The Roman idiom, by an infuſion of Doric and Æolic Greek, was gradually ripened into the ſtyle of the xii tables, of the Duillian column, of Ennius, of Terence, and of Cicero (Gruter, Inſcript. tom. i. p. cxlii. Scipion Maffei, Iſtoria Diplomatica, p. 241—258. Bibliothéque Italique, tom. iii. p. 30—41. 174—205. tom. xiv. p. 1—52.).

[11] Compare Livy (l. iii. c. 31—59.) with Dionyſius Halicarnaſſenſis (l. x. p. 644—xi. p. 691.). How conciſe and animated is the Roman—how prolix and lifeleſs the Greek? Yet he has admirably judged the maſters, and defined the rules, of hiſtorical compoſition.

[12] From the hiſtorians, Heineccius (Hiſt. J. R. l. i. N° 26.) maintains that the twelve tables were of braſs—*æreas*: in the text of Pomponius we read *eboreas*; for which Scaliger has ſubſtituted *roboreas* (Bynkerſhoek, p. 286.). Wood, braſs, and ivory, might be ſucceſſively employed.

[13] His exile is mentioned by Cicero (Tuſculan. Quæſtion. v. 36.); his ſtatue by Pliny (Hiſt. Nat. xxxiv. 11.). The letter, dream, and prophecy

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and diviſions of the copper-money, the ſole coin of the infant ſtate, were of Dorian origin [14]: the harveſts of Campania and Sicily relieved the wants of a people whoſe agriculture was often interrupted by war and faction; and ſince the trade was eſtabliſhed [15], the deputies who ſailed from the Tyber, might return from the ſame harbours with a more precious cargo of political wiſdom. The colonies of Great Greece had tranſported and improved the arts of their mother-country. Cumæ and Rhegium, Crotona and Tarentum, Agrigentum and Syracuſe, were in the rank of the moſt flouriſhing cities. The diſciples of Pythagoras applied philoſophy to the uſe of government; the unwritten laws of Charondas accepted the aid of poetry and muſic [16], and Zaleucus framed the republic of the Locrians, which ſtood without alteration above two hundred years [17]. From a ſimilar motive of national

prophecy of Heraclitus are alike ſpurious (Epiſtolæ Græc. Diverſ. p. 337.).

14 This intricate ſubject of the Sicilian and Roman money, is ably diſcuſſed by Dr. Bentley (Diſſertation on the Epiſtles of Phalaris, p. 427—479.), whoſe powers in this controverſy were called forth by honour and reſentment.

15 The Romans, or their allies, ſailed as far as the fair promontory of Africa (Polyb. l. iii. p. 177. edit. Caſaubon, in folio). Their voyages to Cumæ, &c. are noticed by Livy and Dionyſius.

16 This circumſtance would alone prove the antiquity of Charondas, the legiſlator of Rhegium and Catana, who, by a ſtrange error of Diodorus Siculus (tom. i. l. xii. p. 485—492.), is celebrated long afterwards as the author of the policy of Thurium.

17 Zaleucus, whoſe exiſtence has been raſhly attacked, had the merit and glory of converting a band of outlaws (the Locrians) into the moſt virtuous and orderly of the Greek republics (See two Memoires of the Baron de St. Croix, ſur la Legiſlation de la Grande Grèce; Mem. de l'Academie, tom. xlii. p. 276—333.). But the

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national pride, both Livy and Dionyſius are willing to believe, that the deputies of Rome viſited Athens under the wiſe and ſplendid adminiſtration of Pericles; and the laws of Solon were transfuſed into the twelve tables. If ſuch an embaſſy had indeed been received from the Barbarians of Heſperia, the Roman name would have been familiar to the Greeks before the reign of Alexander [18]; and the fainteſt evidence would have been explored and celebrated by the curioſity of ſucceeding times. But the Athenian monuments are ſilent; nor will it ſeem credible that the patricians ſhould undertake a long and perilous navigation to copy the pureſt model of a democracy. In the compariſon of the tables of Solon with thoſe of the Decemvirs,

laws of Zaleucus and Charondas, which impoſed on Diodorus and Stobæus, are the ſpurious compoſition of a Pythagorean ſophiſt, whoſe fraud has been detected by the critical ſagacity of Bentley (p. 335—377.).

[18] I ſeize the opportunity of tracing the progreſs of this national intercourſe: 1. Herodotus and Thucydides (A. U. C. 300—350.) appear ignorant of the name and exiſtence of Rome (Joſeph. contra Apion. tom. ii. l. i. c. 12. p. 444. edit. Havercamp). 2. Theopompus (A. U. C. 400. Plin. iii. 9.) mentions the invaſion of the Gauls, which is noticed in looſer terms by Heraclides Ponticus (Plutarch in Camillo, p. 292. edit. H. Stephan). 3. The real or fabulous embaſſy of the Romans to Alexander (A. U. C. 430.), is atteſted by Clitarchus (Plin. iii. 9.), by Ariſtus and Aſclepiades (Arrian, l. vii. p. 294, 295.), and by Memnon of Heraclea (apud Photium, cod. ccxxiv. p. 725.); though tacitly denied by Livy. 4. Theophraſtus (A. U. C. 440) primus externorum aliqua de Romanis diligentius ſcripſit (Plin. iii. 9.). 5. Lycophron (A. U. C. 480—500) ſcattered the firſt ſeed of a Trojan colony and the fable of the Æneid (Caſſandra, 1226—1280.):

Γης και θαλασσης σκηπτρα και μοναρχιαν
Λαβοντες.

A bold prediction before the end of the firſt Punic war!

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ſome caſual reſemblance may be found: ſome rules which nature and reaſon have revealed to every ſociety; ſome proofs of a common deſcent from Egypt or Phœnicia [19]. But in all the great lines of public and private juriſprudence, the legiſlators of Rome and Athens appear to be ſtrangers or adverſe to each other.

Their character and influence.

Whatever might be the origin or the merit of the twelve tables [20], they obtained among the Romans that blind and partial reverence which the lawyers of every country delight to beſtow on their municipal inſtitutions. The ſtudy is recommended by Cicero [21] as equally pleaſant and inſtructive. "They amuſe the mind by the remembrance of "old words and the portrait of ancient manners; "they inculcate the ſoundeſt principles of govern- "ment and morals; and I am not afraid to affirm, "that the brief compoſition of the Decemvirs "ſurpaſſes in genuine value the libraries of Grecian "philoſophy. How admirable," ſays Tully, with honeſt or affected prejudice, "is the wiſdom of "our anceſtors. We alone are the maſters of civil

[19] The tenth table, de modo ſepulturæ, was borrowed from Solon (Cicero de Legibus, ii. 23—26.): the furtum per lancem et licium conceptum, is derived by Heineccius from the manners of Athens (Antiquitat. Rom. tom. ii. p. 167—175.). The right of killing a nocturnal thief, was declared by Moſes, Solon, and the Decemvirs (Exodus, xxii. 3. Demoſthenes contra Timocratem, tom. i. p. 736. edit. Reiſke. Macrob. Saturnalia, l. i. c. 4. Collatio Legum Moſaicarum et Romanarum, tit. vii. N° 1. p. 218. edit. Cannegieter).

[20] Βραχέως καὶ ἀπερίττως is the praiſe of Diodorus (tom. i. l. xii. p. 494.), which may be fairly tranſlated by the eleganti atque abſolutâ brevitate verborum of Aulus Gellius (Noct. Attic. xxi. 1.).

[21] Liſten to Cicero (de Legibus, ii. 23.) and his repreſentative Craſſus (de Oratore, i. 43, 44.).

"prudence,

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"prudence, and our ſuperiority is the more conſpicuous, if we deign to caſt our eyes on the rude and almoſt ridiculous juriſprudence of Dracon, of Solon, and of Lycurgus." The twelve tables were committed to the memory of the young and the meditation of the old; they were tranſcribed and illuſtrated with learned diligence: they had eſcaped the flames of the Gauls, they ſubſiſted in the age of Juſtinian, and their ſubſequent loſs has been imperfectly reſtored by the labours of modern critics[22]. But although theſe venerable monuments were conſidered as the rule of right, and the fountain of juſtice[23], they were overwhelmed by the weight and variety of new laws, which, at the end of five centuries, became a grievance more intolerable than the vices of the city[24]. Three thouſand braſs plates, the acts of the ſenate and people, were depoſited in the Capitol[25]: and ſome of the acts, as the Julian law againſt extortion, ſurpaſſed the number of an hundred chapters[26]. The Decemvirs had neglected to import the ſanction of Zaleucus, which ſo long maintained the integrity

22 See Heineccius (Hiſt. J. R. N° 29—33.). I have followed the reſtoration of the xii tables by Gravina (Origines J. C. p. 280—307.) and Teraſſon (Hiſt. de la Juriſprudence Romaine, p. 94—205.).

23 Finis æqui juris (Tacit. Annal. iii. 27.). Fons omnis publici et privati juris (T. Liv. iii. 34.).

24 De principiis juris, et quibus modis ad hanc multitudinem infinitam ac varietatem legum perventum ſit *altius* diſſeram (Tacit. Annal. iii. 25.). This deep diſquiſition fills only two pages, but they are the pages of Tacitus. With equal ſenſe, but with leſs energy, Livy (iii. 34.) had complained, in hac immenſo aliarum ſuper alias acervatarum legum cumulo, &c.

25 Suetonius in Veſpaſiano, c. 8.

26 Cicero ad Familiares, viii. 8.

of

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of his republic. A Locrian who propoſed any new law, ſtood forth in the aſſembly of the people with a cord round his neck, and if the law was rejected, the innovator was inſtantly ſtrangled.

Laws of the people.

The Decemvirs had been named, and their tables were approved by an aſſembly of the *centuries*, in which riches preponderated againſt numbers. To the firſt claſs of Romans, the proprietors of one hundred thouſand pounds of copper [27], ninety-eight votes were aſſigned, and only ninety-five were left for the ſix inferior claſſes, diſtributed according to their ſubſtance by the artful policy of Servius. But the tribunes ſoon eſtabliſhed a more ſpecious and popular maxim, that every citizen has an equal right to enact the laws which he is bound to obey. Inſtead of the *centuries*, they convened the *tribes*; and the patricians, after an impotent ſtruggle, ſubmitted to the decrees of an aſ-

27 Dionyſius, with Arbuthnot, and moſt of the moderns (except Eiſenſchmidt de Ponderibus, &c. p. 137—140.), repreſent the 100,000 *aſſes* by 10,000 Attic drachmæ, or ſomewhat more than 300 pounds ſterling. But their calculation can apply only to the later times, when the *as* was diminiſhed to $\frac{1}{24}$th of its ancient weight: nor can I believe that in the firſt ages, however deſtitute of the precious metals, a ſingle ounce of ſilver could have been exchanged for ſeventy pounds of copper or braſs. A more ſimple and rational method is, to value the copper itſelf according to the preſent rate, and, after comparing the mint and the market price, the Roman and averdupois weight, the primitive *as* or Roman pound of copper may be appreciated at one Engliſh ſhilling, and the 100,000 *aſſes* of the firſt claſs amounted to 5000 pounds ſterling. It will appear from the ſame reckoning, that an ox was ſold at Rome for five pounds, a ſheep for ten ſhillings, and a quarter of wheat for one pound ten ſhillings (Feſtus, p. 330. edit. Dacier. Plin. Hiſt. Natur. xviii. 4.): nor do I ſee any reaſon to reject theſe conſequences, which moderate our ideas of the poverty of the firſt Romans.

ſembly,

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ſembly, in which their votes were confounded with thoſe of the meaneſt plebeians. Yet as long as the tribes ſucceſſively paſſed over narrow *bridges* [28], and gave their voices aloud, the conduct of each citizen was expoſed to the eyes and ears of his friends and countrymen. The inſolvent debtor conſulted the wiſhes of his creditor; the client would have bluſhed to oppoſe the views of his patron: the general was followed by his veterans, and the aſpect of a grave magiſtrate was a living leſſon to the multitude. A new method of ſecret ballot aboliſhed the influence of fear and ſhame, of honour and intereſt, and the abuſe of freedom accelerated the progreſs of anarchy and deſpotiſm [29]. The Romans had aſpired to be equal; they were levelled by the equality of ſervitude; and the dictates of Auguſtus were patiently ratified by the formal conſent of the tribes or centuries. Once, and once only, he experienced a ſincere and ſtrenuous oppoſition. His ſubjects had reſigned all political liberty; they defended the freedom of domeſtic life. A law which enforced the obligation, and ſtrengthened the bonds of marriage, was clamorouſly rejected; Propertius, in the arms of Delia, applauded the victory of licentious love; and the project of reform was ſuſpended till a new and

[28] Conſult the common writers on the Roman Comitia, eſpecially Sigonius and Beaufort. Spanheim (de Præſtantiâ et Uſû Numiſmatum, tom. ii. diſſert. x. p. 192, 193.) ſhews, on a curious medal, the Ciſta, Pontes, Septa, Diribitor, &c.

[29] Cicero (de Legibus, iii. 16, 17, 18.) debates this conſtitutional queſtion, and aſſigns to his brother Quintus the moſt unpopular ſide.

more

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more tractable generation had ariſen in the world [30]. Such an example was not neceſſary to inſtruct a prudent uſurper of the miſchief of popular aſſemblies; and their abolition, which Auguſtus had ſilently prepared, was accompliſhed without reſiſtance, and almoſt without notice, on the acceſſion of his ſucceſſor [31]. Sixty thouſand plebeian legiſlators, whom numbers made formidable, and poverty ſecure, were ſupplanted by ſix hundred ſenators, who held their honours, their fortunes, and their lives, by the clemency of the emperor. The loſs of executive power was alleviated by the gift of legiſlative authority; and Ulpian might aſſert, after the practice of two hundred years, that the decrees of the ſenate obtained the force and validity of laws. In the times of freedom, the reſolves of the people had often been dictated by the paſſion or error of the moment: the Cornelian, Pompeian, and Julian laws, were adapted by a ſingle hand to the prevailing diſorders: but the ſenate, under the reign of the Cæſars, was compoſed of magiſtrates and lawyers, and in queſtions of private juriſprudence, the integrity of their judgment was ſeldom perverted by fear or intereſt [32].

Decrees of the ſenate.

The ſilence or ambiguity of the laws was ſupplied by the occaſional EDICTS of thoſe magiſtrates

Edicts of the prætors.

30 Præ tumultu recuſantium perferre non potuit (Sueton. in Auguſt. c. 34.). See Propertius, l. ii. eleg. 6. Heineccius, in a ſeparate hiſtory, has exhauſted the whole ſubject of the Julian and Papian-Poppæan laws (Opp. tom. vii. P. i. p. 1—479.).

31 Tacit. Annal. i. 15. Lipſius, Excurſus E. in Tacitum.

32 Non ambigitur ſenatum jus facere poſſe, is the deciſion of Ulpian (l. xvi. ad Edict. in Pandect. l. i. tit. iii. leg. 9.). Pomponius taxes the *comitia* of the people as a turba hominum (Pandect. l. i. tit. ii. leg. 9.).

who

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who were inveſted with the *honours* of the ſtate [33]. This ancient prerogative of the Roman kings, was transferred, in their reſpective offices, to the conſuls and dictators, the cenſors and prætors; and a ſimilar right was aſſumed by the tribunes of the people, the ediles, and the proconſuls. At Rome, and in the provinces, the duties of the ſubject, and the intentions of the governor, were proclaimed; and the civil juriſprudence was reformed by the annual edicts of the ſupreme judge, the prætor of the city. As ſoon as he aſcended his tribunal, he announced by the voice of the cryer, and afterwards inſcribed on a white wall, the rules which he propoſed to follow in the deciſion of doubtful caſes, and the relief which his equity would afford from the preciſe rigour of ancient ſtatutes. A principle of diſcretion more congenial to monarchy was introduced into the republic: the art of reſpecting the name, and eluding the efficacy, of the laws, was improved by ſucceſſive prætors; ſubtleties and fictions were invented to defeat the plaineſt meaning of the Decemvirs, and where the end was ſalutary, the means were frequently abſurd. The ſecret or probable wiſh of the dead was ſuffered to prevail over the order of ſucceſſion and the forms of teſtaments; and the claimaint, who was excluded from the character of heir, accepted with equal pleaſure from an indulgent prætor the poſſeſſion of

33 The jus honorarium of the prætors and other magiſtrates, is ſtrictly defined in the Latin text of the Inſtitutes (l. i. tit. ii. N° 7.), and more looſely explained in the Greek paraphraſe of Theophilus (p. 33—38. edit. Reitz), who drops the important word *honorarium*.

the

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the goods of his late kinſman or benefactor. In the redreſs of private wrongs, compenſations and fines were ſubſtituted to the obſolete rigour of the twelve tables; time and ſpace were annihilated by fanciful ſuppoſitions; and the plea of youth, or fraud, or violence, annulled the obligation, or excuſed the performance, of an inconvenient contract. A juriſdiction thus vague and arbitrary was expoſed to the moſt dangerous abuſe: the ſubſtance, as well as the form of juſtice, were often ſacrificed to the prejudices of virtue, the bias of laudable affection, and the groſſer ſeductions of intereſt or reſentment. But the errors or vices of each prætor expired with his annual office; ſuch maxims alone as had been approved by reaſon and practice were copied by ſucceeding judges; the rule of proceeding was defined by the ſolution of new caſes; and the temptations of injuſtice were removed by the Cornelian law, which compelled the prætor of the year to adhere to the letter and ſpirit of his firſt proclamation [34]. It was reſerved for the curioſity and learning of Hadrian, to accompliſh the deſign which had been conceived by the genius of Cæſar; and the prætorſhip of Salvius Julian, an eminent lawyer, was immortalized by the compoſition of the PERPETUAL EDICT.

The perpetual edict.

34 Dion Caſſius (tom. i. l. xxxvi. p. 100.) fixes the perpetual edicts in the year of Rome 686. Their inſtitution, however, is aſcribed to the year 585 in the Acta Diurna, which have been publiſhed from the papers of Ludovicus Vives. Their authenticity is ſupported or allowed by Pighius (Annal. Roman. tom. ii. p. 377, 378.), Græevius (ad Sueton. p. 778.), Dodwell (Prælection. Cambden, p. 665.), and Heineccius: but a ſingle word, Scutum *Cimbricum*, detects the forgery (Moyle's Works, vol. i. p. 303.).

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This well-digeſted code was ratified by the emperor and the ſenate; the long divorce of law and equity was at length reconciled; and, inſtead of the twelve tables, the perpetual edict was fixed as the invariable ſtandard of civil juriſprudence [35].

Conſtitutions of the emperors.

From Auguſtus to Trajan, the modeſt Cæſars were content to promulgate their edicts in the various characters of a Roman magiſtrate: and, in the decrees of the ſenate, the *epiſtles* and *orations* of the prince were reſpectfully inſerted. Hadrian [36] appears to have been the firſt who aſſumed, without diſguiſe, the plenitude of legiſlative power. And this innovation, ſo agreeable to his active mind, was countenanced by the patience of the times, and his long abſence from the ſeat of government. The ſame policy was embraced by ſucceeding monarchs, and, according to the harſh metaphor of Tertullian, "the gloomy and intricate foreſt of ancient laws was cleared away by "the axe of royal mandates and *conſtitutions* [37]." During four centuries, from Hadrian to Juſtinian, the public and private juriſprudence was moulded

35 The hiſtory of edicts is compoſed, and the text of the perpetual edict is reſtored, by the maſter-hand of Heineccius (Opp. tom. vii. P. ii. p. 1—564.); in whoſe reſearches I might ſafely acquieſce. In the Academy of Inſcriptions, M. Bouchaud has given a ſeries of memoirs to this intereſting ſubject of law and literature.

36 His laws are the firſt in the Code. See Dodwell (Prælect. Cambden, p. 319—340.), who wanders from the ſubject in confuſed reading and feeble paradox.

37 Totam illam veterem et ſquallentem ſylvam legum novis principalium reſcriptorum et edictorum ſecuribus ruſcatis et cæditis (Apologet. c. 4. p. 50. edit. Havercamp). He proceeds to praiſe the recent firmneſs of Severus, who repealed the uſeleſs or pernicious laws without any regard to their age or authority.

by

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by the will of the ſovereign; and few inſtitutions, either human or divine, were permitted to ſtand on their former baſis. The origin of Imperial legiſlation was concealed by the darkneſs of ages and the terrors of armed deſpotiſm; and a double fiction was propagated by the ſervility, or perhaps the ignorance, of the civilians who baſked in the ſunſhine of the Roman and Byzantine courts. 1. To the prayer of the ancient Cæſars, the people or the ſenate had ſometimes granted a perſonal exemption from the obligation and penalty of particular ſtatutes; and each indulgence was an act of juriſdiction exerciſed by the republic over the firſt of her citizens. His humble privilege was at length transformed into the prerogative of a tyrant; and the Latin expreſſion of "releaſed from "the laws [38]," was ſuppoſed to exalt the emperor above *all* human reſtraints, and to leave his conſcience and reaſon, as the ſacred meaſure of his conduct. 2. A ſimilar dependance was implied in the decrees of the ſenate, which, in every reign, defined the titles and powers of an elective magiſtrate. But it was not before the ideas, and even the language, of the Romans had been corrupted, that a *royal* law [39], and an irrevocable gift of the people, were created by the fancy of Ulpian, or

[38] The conſtitutional ſtyle of *Legibus Solutus* is miſinterpreted by the art or ignorance of Dion Caſſius (tom. i. l. liii. p. 713.). On this occaſion his editor, Reimar, joins the univerſal cenſure which freedom and criticiſm have pronounced againſt that ſlaviſh hiſtorian.

[39] The *word (Lex Regia)* was ſtill more recent than the *thing*. The ſlaves of Commodus or Caracalla would have ſtarted at the name of royalty.

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more probably of Tribonian himſelf[40]: and the origin of Imperial power, though falſe in fact, and ſlaviſh in its conſequence, was ſupported on a principle of freedom and juſtice. "The pleaſure "of the emperor has the vigour and effect of law, "ſince the Roman people, by the royal law, have "transferred to their prince the full extent of their "own power and ſovereignty[41]." The will of a ſingle man, of a child perhaps, was allowed to prevail over the wiſdom of ages and the inclinations of millions; and the degenerate Greeks were proud to declare, that in his hands alone the arbitrary exerciſe of legiſlation could be ſafely depoſited. "What intereſt or paſſion," exclaims Theophilus in the court of Juſtinian, "can reach "the calm and ſublime elevation of the monarch? "he is already maſter of the lives and fortunes of "his ſubjects; and thoſe who have incurred his "diſpleaſure, are already numbered with the "dead[42]." Diſdaining the language of flattery, the hiſtorian may confeſs, that in queſtions of private juriſprudence, the abſolute ſovereign of a great empire can ſeldom be influenced by any per-

Their legiſlative power.

40 See Gravina (Opp. p. 501—512.) and Beaufort (Republique Romaine, tom. i. p. 255—274.). He has made a proper uſe of two diſſertations by John Frederick Gronovius and Noodt, both tranſlated, with valuable notes, by Barbeyrac, 2 vols. in 12mo, 1731.

41 Inſtitut. l. i. tit. ii. N° 6. Pandect. l. i. tit. iv. leg. 1. Cod. Juſtinian. l. i. tit. xvii. leg. 1. N° 7. In his Antiquities and Elements, Heineccius has amply treated de conſtitutionibus principum, which are illuſtrated by Godefroy (Comment. ad Cod. Theodoſ. l. i. tit. i, ii, iii.) and Gravina (p. 87—90.)

42 Theophilus, in Paraphraſ. Græc. Inſtitut. p. 33, 34. edit. Reitz. For his perſon, time, writings, ſee the Theophilus of J. H. Mylius, Excurſ. iii. p. 1034—1073.

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ſonal conſiderations. Virtue, or even reaſon, will ſuggeſt to his impartial mind, that he is the guardian of peace and equity, and that the intereſt of ſociety is inſeparably connected with his own. Under the weakeſt and moſt vicious reign, the ſeat of juſtice was filled by the wiſdom and integrity of Papinian and Ulpian[43]; and the pureſt materials of the Code and Pandects are inſcribed with the names of Caracalla and his miniſters[44]. The tyrant of Rome was ſometimes the benefactor of the provinces. A dagger terminated the crimes of Domitian; but the prudence of Nerva confirmed his acts, which, in the joy of their deliverance, had been reſcinded by an indignant ſenate[45]. Yet in the *reſcripts*[46], replies to the conſultations of the magiſtrates, the wiſeſt of princes might be deceived by a partial expoſition of the caſe. And this abuſe, which placed their haſty deciſions on the ſame level with mature and deliberate acts of legiſlation, was ineffectually condemned by the ſenſe and example of Trajan. The *reſcripts* of the

Their reſcripts.

43 There is more envy than reaſon in the complaint of Macrinus (Jul. Capitolin. c. 13.): Nefas eſſe leges videri Commodi et Caracallæ et hominum imperitorum voluntates. Commodus was made a Divus by Severus (Dodwell, Prælect. viii. p. 324, 325.). Yet he occurs only twice in the Pandects.

44 Of Antoninus Caracalla alone 200 conſtitutions are extant in the Code, and with his father 160. Theſe two princes are quoted fifty times in the Pandects and eight in the Inſtitutes (Teraſſon, p. 265.).

45 Plin. Secund. Epiſtol. x. 66. Sueton. in Domitian. c. 23.

46 It was a maxim of Conſtantine, contra jus reſcripta non valeant (Cod. Theodoſ. l. i. tit. ii. leg. 1.). The emperors reluctantly allow ſome ſcrutiny into the law and the fact, ſome delay, petition, &c.; but theſe inſufficient remedies are too much in the diſcretion and at the peril of the judge.

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emperor, his *grants* and *decrees*, his *edicts* and *pragmatic ſanctions*, were ſubſcribed in purple ink [47], and tranſmitted to the provinces as general or ſpecial laws, which the magiſtrates were bound to execute, and the people to obey. But as their number continually multiplied, the rule of obedience became each day more doubtful and obſcure, till the will of the ſovereign was fixed and aſcertained in the Gregorian, the Hermogenian, and the Theodoſian codes. The two firſt, of which ſome fragments have eſcaped, were framed by two private lawyers, to preſerve the conſtitutions of the Pagan emperors from Hadrian to Conſtantine. The third, which is ſtill extant, was digeſted in ſixteen books by the order of the younger Theodoſius, to conſecrate the laws of the Chriſtian princes from Conſtantine to his own reign. But the three codes obtained an equal authority in the tribunals; and any act which was not included in the ſacred depoſit, might be diſregarded by the judge as ſpurious or obſolete [48].

Forms of the Roman law.

Among ſavage nations, the want of letters is imperfectly ſupplied by the uſe of viſible ſigns, which awaken attention, and perpetuate the remembrance of any public or private tranſaction.

47 A compound of vermillion and cinnabar, which marks the Imperial diplomas from Leo I. (A. D. 470) to the fall of the Greek empire (Bibliothéque Raiſonnée de la Diplomatique, tom. i. p. 509—514. Lami, de Eruditione Apoſtolorum, tom. ii. p. 720—726.).

48 Schulting, Juriſprudentia Ante-Juſtinianea, p. 681—718. Cujacius aſſigned to Gregory the reigns from Hadrian to Gallienus, and the continuation to his fellow-labourer Hermogenes. This general diviſion may be juſt; but they often treſpaſſed on each other's ground.

The

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The juriſprudence of the firſt Romans exhibited the ſcenes of a pantomime; the words were adapted to the geſtures, and the ſlighteſt error or neglect in the *forms* of proceeding, was ſufficient to annul the *ſubſtance* of the faireſt claim. The communion of the marriage-life was denoted by the neceſſary elements of fire and water [49]: and the divorced wife reſigned the bunch of keys, by the delivery of which, ſhe had been inveſted with the government of the family. The manumiſſion of a ſon, or a ſlave, was performed by turning him round with a gentle blow on the cheek: a work was prohibited by the caſting of a ſtone; preſcription was interrupted by the breaking of a branch; the clenched fiſt was the ſymbol of a pledge or depoſit; the right hand was the gift of faith and confidence. The indenture of covenants was a broken ſtraw; weights and ſcales were introduced into every payment, and the heir who accepted a teſtament, was ſometimes obliged to ſnap his fingers, to caſt away his garments, and to leap and dance with real or affected tranſport [50]. If a citizen purſued any ſtolen goods into a neighbour's houſe, he concealed his nakedneſs with a linen towel, and hid his face with a maſk or baſon, leſt he ſhould encounter the eyes of a virgin or a

49 Scævola, moſt probably Q. Cervidius Scævola the maſter of Papinian, conſiders this acceptance of fire and water as the eſſence of marriage (Pandect. l. xxiv. tit. i, leg. 66. See Heineccius, Hiſt. J. R. N° 317.).

50 Cicero (de Officiis, iii. 19.) may ſtate an ideal caſe, but St. Ambroſe (de Officiis, iii 2.) appeals to the practice of his own times, which he underſtood as a lawyer and a magiſtrate (Schulting ad Ulpian. Fragment. tit. xxii. N° 28. p. 643, 644.).

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matron [51]. In a civil action, the plaintiff touched the ear of his witneſs, ſeized his reluctant adverſary by the neck, and implored, in ſolemn lamentation, the aid of his fellow-citizens. The two competitors graſped each other's hand as if they ſtood prepared for combat before the tribunal of the prætor: he commanded them to produce the object of the diſpute; they went, they returned with meaſured ſteps, and a clod of earth was caſt at his feet to repreſent the field for which they contended. This occult ſcience of the words and actions of law, was the inheritance of the pontiffs and patricians. Like the Chaldean aſtrologers, they announced to their clients the days of buſineſs and repoſe; theſe important trifles were interwoven with the religion of Numa; and, after the publication of the twelve tables, the Roman people was ſtill enſlaved by the ignorance of judicial proceedings. The treachery of ſome plebeian officers at length revealed the profitable myſtery: in a more enlightened age, the legal actions were derided and obſerved; and the ſame antiquity which ſanctified the practice, obliterated the uſe and meaning, of this primitive language [52].

[51] The furtum lance licioque conceptum was no longer underſtood in the time of the Antonines (Aulus Gellius, xvi. 10.). The Attic derivation of Heineccius (Antiquitat. Rom. l. iv. tit. i. N° 13—21.) is ſupported by the evidence of Ariſtophanes, his ſcholiaſt, and Pollux.

[52] In his Oration for Murena (c. 9—13.) Cicero turns into ridicule the forms and myſteries of the civilians, which are repreſented with more candour by Aulus Gellius (Noct. Attic. xx. 10), Gravina (Opp. p. 265, 266, 267.), and Heineccius (Antiquitat. l. iv. tit. vi.).

A more

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Succeſſion of the civil lawyers.

A more liberal art was cultivated, however, by the ſages of Rome, who, in a ſtricter ſenſe, may be conſidered as the authors of the civil law. The alteration of the idiom and manners of the Romans, rendered the ſtyle of the twelve tables leſs familiar to each riſing generation, and the doubtful paſſages were imperfectly explained by the ſtudy of legal antiquarians. To define the ambiguities, to circumſcribe the latitude, to apply the principles, to extend the conſequences, to reconcile the real or apparent contradictions, was a much nobler and more important taſk; and the province of legiſlation was ſilently invaded by the expounders of ancient ſtatutes. Their ſubtle interpretations concurred with the equity of the prætor, to reform the tyranny of the darker ages: however ſtrange or intricate the means, it was the aim of artificial juriſprudence to reſtore the ſimple dictates of nature and reaſon, and the ſkill of private citizens was uſefully employed to undermine the public inſtitutions of their country. The revolution of almoſt one thouſand years, from the twelve tables to the reign of Juſtinian, may be divided into three periods almoſt equal in duration, and diſtinguiſhed from each other by the mode of inſtruction and the character of the civilians [53]. Pride and ignorance contributed, during the

53 The ſeries of the civil lawyers is deduced by Pomponius (de Origine Juris Pandect. l. i. tit. ii.). The moderns have diſcuſſed, with learning and criticiſm, this branch of literary hiſtory; and among theſe I have chiefly been guided by Gravina (p. 41—79.) and Heineccius (Hiſt. J. R. N° 113—351.). Cicero, more eſpecially in his books de Oratore, de Claris Oratoribus, de Legibus, and the

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The firſt period, A. U. C. 303—648.

the firſt period, to confine within narrow limits the ſcience of the Roman law. On the public days of market or aſſembly, the maſters of the art were ſeen walking in the forum, ready to impart the needful advice to the meaneſt of their fellow-citizens, from whoſe votes, on a future occaſion, they might ſolicit a grateful return. As their years and honours increaſed, they ſeated themſelves at home on a chair or throne, to expect with patient gravity the viſits of their clients, who at the dawn of day, from the town and country, began to thunder at their door. The duties of ſocial life, and the incidents of judicial proceeding, were the ordinary ſubject of theſe conſultations, and the verbal or written opinion of the *juriſconſults* was framed according to the rules of prudence and law. The youths of their own order and family were permitted to liſten; their children enjoyed the benefit of more private leſſons, and the Mucian race was long renowned for the hereditary knowledge of the civil law.

Second period, A. U. C. 648—988.

The ſecond period, the learned and ſplendid age of juriſprudence, may be extended from the birth of Cicero to the reign of Severus Alexander. A ſyſtem was formed, ſchools were inſtituted, books were com-

Clavis Ciceroniana of Erneſti (under the names of *Mucius*, &c.), afford much genuine and pleaſing information. Horace often alludes to the morning labours of the civilians (Serm. I. i. 10. Epiſt. II. i. 103, &c.).

Agricolam laudat juris legumque peritus
Sub galli cantum, conſultor ubi oſtia pulſat.

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Romæ dulce diu fuit et ſolemne, recluſâ
Mane domo vigilare, clienti promere jura,

poſed,

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poſed, and both the living and the dead became ſubſervient to the inſtruction of the ſtudent. The *tripartite* of Ælius Pætus, ſurnamed Catus, or the Cunning, was preſerved as the oldeſt work of juriſprudence. Cato the cenſor derived ſome additional fame from his legal ſtudies, and thoſe of his ſon: the kindred appellation of Mucius Scævola was illuſtrated by three ſages of the law; but the perfection of the ſcience was aſcribed to Servius Sulpicius their diſciple, and the friend of Tully; and the long ſucceſſion, which ſhone with equal luſtre under the republic and under the Cæſars, is finally cloſed by the reſpectable characters of Papinian, of Paul, and of Ulpian. Their names, and the various titles of their productions, have been minutely preſerved, and the example of Labeo may ſuggeſt ſome idea of their diligence and fecundity. That eminent lawyer of the Auguſtan age, divided the year between the city and country, between buſineſs and compoſition; and four hundred books are enumerated as the fruit of his retirement. Of the collections of his rival Capito, the two hundred and fifty-ninth book is expreſsly quoted; and few teachers could deliver their opinions in leſs than a century of volumes. In the third period, between the reigns of Alexander and Juſtinian, the oracles of juriſprudence were almoſt mute. The meaſure of curioſity had been filled: the throne was occupied by tyrants and Barbarians; the active ſpirits were diverted by religious diſputes, and the profeſſors of Rome, Conſtantinople, and Berytus, were humbly content to repeat the leſſons of their more enlightened prede-

Third period, A. U. C. 988-1230.

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predeceſſors. From the ſlow advances and rapid decay of theſe legal ſtudies, it may be inferred, that they require a ſtate of peace and refinement. From the multitude of voluminous civilians who fill the intermediate ſpace, it is evident, that ſuch ſtudies may be purſued, and ſuch works may be performed, with a common ſhare of judgment, experience, and induſtry. The genius of Cicero and Virgil was more ſenſibly felt, as each revolving age had been found incapable of producing a ſimilar or a ſecond: but the moſt eminent teachers of the law were aſſured of leaving diſciples equal or ſuperior to themſelves in merit and reputation.

Their philoſophy.

The juriſprudence which had been groſsly adapted to the wants of the firſt Romans, was poliſhed and improved in the ſeventh century of the city, by the alliance of Grecian philoſophy. The Scævolas had been taught by uſe and experience; but Servius Sulpicius was the firſt civilian who eſtabliſhed his art on a certain and general theory [54]. For the diſcernment of truth and falſehood, he applied, as an infallible rule, the logic of Ariſtotle and the ſtoics, reduced particular caſes to general principles, and diffuſed over the ſhapeleſs maſs, the light of order and eloquence. Cicero, his contemporary and friend, declined the reputation of a profeſſed lawyer; but the juriſprudence of his

54 Craſſus, or rather Cicero himſelf, propoſes (de Oratore, i. 41, 42.) an idea of the art or ſcience of juriſprudence, which the eloquent, but illiterate, Antonius (i. 58.) affects to deride. It was partly executed by Servius Sulpicius (in Bruto, c. 41.), whoſe praiſes are elegantly varied in the claſſic Latinity of the Roman Gravina (p. 60.).

country

country was adorned by his incomparable genius, which converts into gold every object that it touches. After the example of Plato, he compoſed a republic; and, for the uſe of his republic, a treatiſe of laws; in which he labours to deduce from a celeſtial origin, the wiſdom and juſtice of the Roman conſtitution. The whole univerſe, according to his ſublime hypotheſis, forms one immenſe commonwealth: gods and men, who participate of the ſame eſſence, are members of the ſame community; reaſon preſcribes the law of nature and nations; and all poſitive inſtitutions, however modified by accident or cuſtom, are drawn from the rule of right, which the Deity has inſcribed on every virtuous mind. From theſe philoſophical myſteries, he mildly excludes the ſceptics who refuſe to believe, and the epicureans who are unwilling to act. The latter diſdain the care of the republic; he adviſes them to ſlumber in their ſhady gardens. But he humbly intreats that the new academy would be ſilent, ſince her bold objections would too ſoon deſtroy the fair and well-ordered ſtructure of his lofty ſyſtem [55]. Plato, Ariſtotle, and Zeno, he repreſents as the only teachers who arm and inſtruct a citizen for the duties of ſocial life. Of theſe, the armour of the

55 Perturbatricem autem omnium harum rerum academiam, hanc ab Arceſila et Carneade recentem, exoremus ut ſileat, nam ſi invaſerit in hæc, quæ ſatis ſcite inſtructa et compoſita videantur, nimis edet ruinas, quam quidem ego placare cupio, ſubmovere non audeo (de Legibus, i. 13.). From this paſſage alone, Bentley (Remarks on Free-thinking, p. 250.) might have learned how firmly Cicero believed in the ſpecious doctrines which he has adorned.

ſtoics

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ſtoics[56] was found to be of the firmeſt temper; and it was chiefly worn, both for uſe and ornament, in the ſchools of juriſprudence. From the portico, the Roman civilians learned to live, to reaſon, and to die: but they imbibed in ſome degree the prejudices of the ſect; the love of paradox, the pertinacious habits of diſpute, and a minute attachment to words and verbal diſtinctions. The ſuperiority of *form* to *matter*, was introduced to aſcertain the right of property: and the equality of crimes is countenanced by an opinion of Trebatius[57], that he who touches the ear, touches the whole body; and that he who ſteals from an heap of corn, or an hogſhead of wine, is guilty of the entire theft[58].

Authority.

Arms, eloquence, and the ſtudy of the civil law, promoted a citizen to the honours of the Roman ſtate; and the three profeſſions were ſometimes more conſpicuous by their union in the ſame character. In the compoſition of the edict, a learned prætor gave a ſanction and preference to his private ſentiments: the opinion of a cenſor, or a conſul, was entertained with reſpect; and a doubtful interpretation of the laws might be ſup-

[56] The ſtoic philoſophy was firſt taught at Rome by Panætius, the friend of the younger Scipio (ſee his life in the Mem. de l'Academie des Inſcriptions, tom. x. p. 75—89.).

[57] As he is quoted by Ulpian (leg. 40. ad Sabinum in Pandect. l. xlvii. tit. ii. leg. 21.). Yet Trebatius, after he was a leading civilian, qui familiam duxit, became an epicurean (Cicero ad Fam. vii. 5.). Perhaps he was not conſtant or ſincere in his new ſect.

[58] See Gravina (p. 45—51.) and the ineffectual cavils of Maſcou. Heineccius (Hiſt. J. R. N° 125.) quotes and approves a diſſertation of Everard Otto, de Stoica Juriſconſultorum Philoſophiâ.

ported

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ported by the virtues or triumphs of the civilian. The patrician arts were long protected by the veil of myſtery; and in more enlightened times, the freedom of inquiry eſtabliſhed the general principles of juriſprudence. Subtle and intricate caſes were elucidated by the diſputes of the forum: rules, axioms, and definitions [59], were admitted as the genuine dictates of reaſon; and the conſent of the legal profeſſors was interwoven into the practice of the tribunals. But theſe interpreters could neither enact nor execute the laws of the republic; and the judges might diſregard the authority of the Scævolas themſelves, which was often overthrown by the eloquence or ſophiſtry of an ingenious pleader [60]. Auguſtus and Tiberius were the firſt to adopt, as an uſeful engine, the ſcience of the civilians; and their ſervile labours accommodated the old ſyſtem to the ſpirit and views of deſpotiſm. Under the fair pretence of ſecuring the dignity of the art, the privilege of ſubſcribing legal and valid opinions was confined to the ſages of ſenatorian or equeſtrian rank, who had been previouſly approved by the judgment of the prince; and this monopoly prevailed, till Hadrian reſtored the freedom of the profeſſion to every citizen conſcious of his abilities and knowledge. The diſcretion of the prætor was now governed by the leſſons of his teachers; the judges were enjoined to obey the comment as well as the text

59 We have heard of the Catonian rule, the Aquilian ſtipulation, and the Manilian forms, of 211 maxims, and of 247 definitions (Pandect. l. l. tit. xvi, xvii.).

60 Read Cicero, l. i. de Oratore, Topica, pro Murena.

of

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of the law; and the uſe of codicils was a memorable innovation, which Auguſtus ratified by the advice of the civilians [61].

The moſt abſolute mandate could only require that the judges ſhould agree with the civilians, if the civilians agreed among themſelves. But poſitive inſtitutions are often the reſult of cuſtom and prejudice; laws and language are ambiguous and arbitrary; where reaſon is incapable of pronouncing, the love of argument is inflamed by the envy of rivals, the vanity of maſters, the blind attachment of their diſciples; and the Roman juriſprudence was divided by the once famous ſects of the *Proculians* and *Sabinians* [62]. Two ſages of the law, Ateius Capito and Antiſtius Labeo [63], adorned the peace of the Auguſtan age: the former diſtinguiſhed by the favour of his ſovereign; the latter more illuſtrious by his contempt of that favour, and his ſtern though harmleſs oppoſition to the tyrant of Rome. Their legal ſtudies were influenced

[61] See Pomponius (de Origine Juris Pandect. l. i. tit. ii. leg. 2. N° 47.), Heineccius (ad Inſtitut. l. i. tit. ii. N° 8. l. ii. tit. xxv. in Element. et Antiquitat.), and Gravina (p. 41—45.). Yet the monopoly of Auguſtus, an harſh meaſure, would appear with ſome ſoftening in contemporary evidence; and it was probably veiled by a decree of the ſenate.

[62] I have peruſed the Diatribe of Gotfridus Maſcovius, the learned Maſcou, de Sectis Juriſconſultorum (Lipſiæ, 1728, in 12^mo^, p. 276.), a learned treatiſe on a narrow and barren ground.

[63] See the character of Antiſtius Labeo in Tacitus (Annal. iii. 75.) and in an epiſtle of Ateius Capito (Aul. Gellius, xiii. 12.), who accuſes his rival of libertas nimia et *vecors*. Yet Horace would not have laſhed a virtuous and reſpectable ſenator; and I muſt adopt the emendation of Bentley, who reads *Labieno* inſanior (Serm. I. iii. 82.). See Maſcou, de Sectis (c. 1. p. 1—24.).

by

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by the various colours of their temper and principles. Labeo was attached to the form of the old republic; his rival embraced the more profitable ſubſtance of the riſing monarchy. But the diſpoſition of a courtier is tame and ſubmiſſive; and Capito ſeldom preſumed to deviate from the ſentiments, or at leaſt from the words, of his predeceſſors: while the bold republican purſued his independent ideas without fear of paradox or innovations. The freedom of Labeo was enſlaved, however, by the rigour of his own concluſions, and he decided according to the letter of the law, the ſame queſtions which his indulgent competitor reſolved with a latitude of equity more ſuitable to the common ſenſe and feelings of mankind. If a fair exchange had been ſubſtituted to the payment of money, Capito ſtill conſidered the tranſaction as a legal ſale[64]; and he conſulted nature for the age of puberty, without confining his definition to the preciſe period of twelve or fourteen years[65]. This oppoſition of ſentiments was propagated in the

64 Juſtinian (Inſtitut. l. iii. tit. xxiii. and Theophil. Verſ. Græc. p. 677. 680.) has commemorated this weighty diſpute, and the verſes of Homer that were alleged on either ſide as legal authorities. It was decided by Paul (leg. 33. ad Edict. in Pandect. l. xviii. tit. i. leg. 1.), ſince, in a ſimple exchange, the buyer could not be diſcriminated from the ſeller.

65 This controverſy was likewiſe given for the Proculians, to ſuperſede the indecency of a ſearch, and to comply with the aphoriſm of Hippocrates, who was attached to the ſeptenary number of two weeks of years, or 700 of days (Inſtitut. l. i. tit. xxii.). Plutarch and the ſtoics (de Placit. Philoſoph. l. v. c. 24.) aſſign a more natural reaſon. Fourteen years is the age—περι ην ὁ σπερματικος κριναται ορος. See the *veſtigia* of the ſects in Maſcou, c. ix. p. 145—276.

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writings and leſſons of the two founders; the ſchools of Capito and Labeo maintained their inveterate conflict from the age of Auguſtus to that of Hadrian [66]; and the two ſects derived their appellations from Sabinus and Proculius, their moſt celebrated teachers. The names of *Caſſians* and *Pegaſians* were likewiſe applied to the ſame parties; but, by a ſtrange reverſe, the popular cauſe was in the hands of Pegaſus [67], a timid ſlave of Domitian, while the favourite of the Cæſars was repreſented by Caſſius [68], who gloried in his deſcent from the patriot aſſaſſin. By the perpetual edict, the controverſies of the ſects were in a great meaſure determined. For that important work, the emperor Hadrian preferred the chief of the Sabinians: the friends of monarchy prevailed; but the moderation of Salvius Julian inſenſibly reconciled the victors and the vanquiſhed. Like the contemporary philoſophers, the lawyers of the age of the Antonines diſclaimed the authority of a maſter, and adopted from every ſyſtem the moſt probable doctrines [69]. But their writings would have been leſs

66 The ſeries and concluſion of the ſects are deſcribed by Maſcou (c. ii—vii. p. 24—120.), and it would be almoſt ridiculous to praiſe his equal juſtice to theſe obſolete ſects.

67 At the firſt ſummons he flies to the turbot-council; yet Juvenal (Satir. iv. 75—81.) ſtyles the præfect or *bailiff* of Rome ſanctiſſimus legum interpres. From his ſcience, ſays the old ſcholiaſt, he was called, not a man, but a book. He derived the ſingular name of Pegaſus from the galley which his father commanded.

68 Tacit. Annal. xvii. 7. Sueton. in Nerone, c. 37.

69 Maſcou, de Sectis, c. viii. p. 120—144. de Heriſcundis, a legal term which was applied to theſe eclectic lawyers: *herciſcere* is ſynonymous to dividere.

voluminous, had their choice been more unanimous. The conſcience of the judge was perplexed by the number and weight of diſcordant teſtimonies, and every ſentence that his paſſion or intereſt might pronounce, was juſtified by the ſanction of ſome venerable name. An indulgent edict of the younger Theodoſius excuſed him from the labour of comparing and weighing their arguments. Five civilians, Caius, Papinian, Paul, Ulpian, and Modeſtinus, were eſtabliſhed as the oracles of juriſprudence: a majority was deciſive; but if their opinions were equally divided, a caſting vote was aſcribed to the ſuperior wiſdom of Papinian [70].

Reformation of the Roman law by Juſtinian, A.D. 527, &c.

When Juſtinian aſcended the throne, the reformation of the Roman juriſprudence was an arduous but indiſpenſable taſk. In the ſpace of ten centuries, the infinite variety of laws and legal opinions had filled many thouſand volumes, which no fortune could purchaſe and no capacity could digeſt. Books could not eaſily be found; and the judges, poor in the midſt of riches, were reduced to the exerciſe of their illiterate diſcretion. The ſubjects of the Greek provinces were ignorant of the language that diſpoſed of their lives and properties; and the *barbarous* dialect of the Latins was imperfectly ſtudied in the academies of Berytus and Conſtantinople. As an Illyrian ſoldier, that idiom was

70 See the Theodoſian Code, l. i. tit. iv. with Godefroy's Commentary, tom. i. p. 30—35. This decree might give occaſion to Jeſuitical diſputes like thoſe in the Lettres Provinciales, whether a judge was obliged to follow the opinion of Papinian or of a majority, againſt his judgment, againſt his conſcience, &c. Yet a legiſlator might give that opinion, however falſe, the validity not of truth, but of law.

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familiar to the infancy of Juſtinian; his youth had been inſtructed by the leſſons of juriſprudence, and his Imperial choice ſelected the moſt learned civilians of the Eaſt, to labour with their ſovereign in the work of reformation [71]. The theory of profeſſors was aſſiſted by the practice of advocates and the experience of magiſtrates; and the whole undertaking was animated by the ſpirit of Tribonian [72]. This extraordinary man, the object of ſo much praiſe and cenſure, was a native of Side in Pamphylia; and his genius, like that of Bacon, embraced, as his own, all the buſineſs and knowledge of the age. Tribonian compoſed, both in proſe and verſe, on a ſtrange diverſity of curious and abſtruſe ſubjects [73]: a double panegyric of Juſtinian and the life of the philoſopher Theodotus; the nature of happineſs and the duties of government; Homer's catalogue and the four and twenty ſorts of metre; the aſtronomical canon of

Tribonian, A. D. 527—546.

[71] For the legal labours of Juſtinian, I have ſtudied the Preface to the Inſtitutes; the 1st, 2d, and 3d Prefaces to the Pandects; the 1st and 2d Preface to the Code; and the Code itſelf (l. i. tit. xvii. de Veteri Jure enucleando). After theſe original teſtimonies, I have conſulted, among the moderns, Heineccius (Hiſt. J. R. No 383—404.), Teraſſon (Hiſt. de la Juriſprudence Romaine, p. 295—356.), Gravina (Opp. p. 93—100.), and Ludewig, in his Life of Juſtinian (p. 19—123. 318—321.: for the Code and Novels, p. 209—261.; for the Digeſt or Pandects, p. 262—317.).

[72] For the character of Tribonian, ſee the teſtimonies of Procopius (Perſic. l. i. c. 23, 24. Anecot. c. 13. 20.) and Suidas (tom. iii. p. 501. edit. Kuſter). Ludewig (in Vit. Juſtinian. p. 175—209.) works hard, very hard, to white-waſh—the black-a-moor.

[73] I apply the two paſſages of Suidas to the ſame man; every circumſtance ſo exactly tallies. Yet the lawyers appear ignorant; and Fabricius is inclined to ſeparate the two characters (Bibliot. Græc. tom. i. p. 341. ii. p. 518. iii. p. 418. xii. p. 346. 353. 474.).

Ptolemy;

Ptolemy; the changes of the months; the houſes of the planets; and the harmonic ſyſtem of the world. To the literature of Greece he added the uſe of the Latin tongue; the Roman civilians were depoſited in his library and in his mind; and he moſt aſſiduouſly cultivated thoſe arts which opened the road of wealth and preferment. From the bar of the prætorian præfects, he raiſed himſelf to the honours of quæſtor, of conſul, and of maſter of the offices: the council of Juſtinian liſtened to his eloquence and wiſdom, and envy was mitigated by the gentleneſs and affability of his manners. The reproaches of impiety and avarice have ſtained the virtues or the reputation of Tribonian. In a bigotted and perſecuting court, the principal miniſter was accuſed of a ſecret averſion to the Chriſtian faith, and was ſuppoſed to entertain the ſentiments of an Atheiſt and a Pagan, which have been imputed, inconſiſtently enough, to the laſt philoſophers of Greece. His avarice was more clearly proved and more ſenſibly felt. If he were ſwayed by gifts in the adminiſtration of juſtice, the example of Bacon will again occur; nor can the merit of Tribonian atone for his baſeneſs, if he degraded the ſanctity of his profeſſion; and if laws were every day enacted, modified, or repealed, for the baſe conſideration of his private emolument. In the ſedition of Conſtantinople, his removal was granted to the clamours, perhaps to the juſt indignation, of the people: but the quæſtor was ſpeedily reſtored, and till the hour of his death, he poſſeſſed, above twenty years, the favour and confidence of

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the emperor. His paſſive and dutiful ſubmiſſion has been honoured with the praiſe of Juſtinian himſelf, whoſe vanity was incapable of diſcerning how often that ſubmiſſion degenerated into the groſſeſt adulation. Tribonian adored the virtues of his gracious maſter: the earth was unworthy of ſuch a prince; and he affected a pious fear, that Juſtinian, like Elijah or Romulus, would be ſnatched into the air, and tranſlated alive to the manſions of cœleſtial glory[74].

The Code of Juſtinian, A. D. 528, February 13; A. D. 529, April 7.

If Cæſar had atchieved the reformation of the Roman law, his creative genius, enlightened by reflection and ſtudy, would have given to the world a pure and original ſyſtem of juriſprudence. Whatever flattery might ſuggeſt, the emperor of the Eaſt was afraid to eſtabliſh his private judgment as the ſtandard of equity: in the poſſeſſion of legiſlative power, he borrowed the aid of time and opinion; and his laborious compilations are guarded by the ſages and legiſlators of paſt times. Inſtead of a ſtatue caſt in a ſimple mould by the hand of an artiſt, the works of Juſtinian repreſent a teſſelated pavement of antique and coſtly, but too often of incoherent fragments. In the firſt

74 This ſtory is related by Heſychius (de Viris Illuſtribus), Procopius (Anecdot. c. 13.), and Suidas (tom. iii. p. 501.). Such flattery is incredible?

——Nihil eſt quod credere de ſe
Non poteſt, cum laudatur Diis æqua poteſtas.

Fontenelle (tom. i. p 32—39.) has ridiculed the impudence of the modeſt Virgil. But the ſame Fontenelle places his king above the divine Auguſtus; and the ſage Boileau has not bluſhed to ſay "Le "deſtin à ſes yeux n'oſeroit balancer." Yet neither Auguſtus nor Louis XIV. were fools.

year

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year of his reign, he directed the faithful Tribonian, and nine learned aſſociates, to reviſe the ordinances of his predeceſſors, as they were contained, ſince the time of Hadrian, in the Gregorian, Hermogenian, and Theodoſian codes; to purge the errors and contradictions, to retrench whatever was obſolete or ſuperfluous, and to ſelect the wiſe and ſalutary laws beſt adapted to the practice of the tribunals and the uſe of his ſubjects. The work was accompliſhed in fourteen months; and the twelve books or *tables*, which the new decemvirs produced, might be deſigned to imitate the labours of their Roman predeceſſors. The new CODE of Juſtinian was honoured with his name, and confirmed by his royal ſignature: authentic tranſcripts were multiplied by the pens of notaries and ſcribes; they were tranſmitted to the magiſtrates of the European, the Aſiatic, and afterwards the African provinces: and the law of the empire was proclaimed on ſolemn feſtivals at the doors of churches. A more arduous operation was ſtill behind: to extract the ſpirit of juriſprudence from the deciſions and conjectures, the queſtions and diſputes of the Roman civilians. Seventeen lawyers, with Tribonian at their head, were appointed by the emperor to exerciſe an abſolute juriſdiction over the works of their predeceſſors. If they had obeyed his commands in ten years, Juſtinian would have been ſatisfied with their diligence; and the rapid compoſition of the DIGEST or PANDECTS [75], in

The Pandects or Digeſt, A.D. 530, Dec. 15; A.D. 533, Dec. 16.

[75] Πανδεκται (general receivers) was a common title of the Greek miſcellanies (Plin. Præfat. ad Hiſt. Natur.). The *Digeſta* of Scævola, Marcellinus, Celſus, were already familiar to the civilians: but Juſtinian

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in three years, will deſerve praiſe or cenſure, according to the merit of the execution. From the library of Tribonian, they choſe forty, the moſt eminent civilians of former times[76]: two thouſand treatiſes were compriſed in an abridgment of fifty books; and it has been carefully recorded, that three millions of lines or ſentences[77], were reduced, in this abſtract, to the moderate number of one hundred and fifty thouſand. The edition of this great work was delayed a month after that of the INSTITUTES; and it ſeemed reaſonable that the elements ſhould precede the digeſt of the Roman law. As ſoon as the emperor had approved their labours, he ratified, by his legiſlative power, the ſpeculations of theſe private citizens: their commentaries, on the twelve tables, the perpetual edict, the laws of the people, and the decrees of the ſenate, ſucceeded to the authority of the text; and

tinian was in the wrong when he uſed the two appellations as ſynonymous. Is the word *Pandects* Greek or Latin—maſculine or feminine? The diligent Brenckman will not preſume to decide theſe momentous controverſies (Hiſt. Pandect. Florentin. p. 300—304.).

76 Angelus Politianus (l. v. Epiſt. ult.) reckons thirty-ſeven (p. 192—200.) civilians quoted in the Pandects—a learned, and, for his times, an extraordinary liſt. The Greek Index to the Pandects enumerates thirty-nine; and forty are produced by the indefatigable Fabricius (Bibliot. Græc. tom. iii. p. 488—502. Antoninus Auguſtus (de Nominibus Propriis. Pandect. apud Ludewig, p. 283.) is ſaid to have added fifty-four names; but they muſt be vague or ſecond-hand references.

77 The Στιχοι of the ancient MSS. may be ſtrictly defined as ſentences or periods of a complete ſenſe, which, on the breadth of the parchment rolls or volumes, compoſed as many lines of unequal length. The number of Στιχοι in each book ſerved as a check on the errors of the ſcribes (Ludewig, p. 211—215. and his original author Suicer. Theſaur. Eccleſiaſt. tom. i. p. 1021—1036.).

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the text was abandoned, as an uſeleſs, though venerable, relic of antiquity. The *Code*, the *Pandects*, and the *Inſtitutes*, were declared to be the legitimate ſyſtem of civil juriſprudence; they alone were admitted in the tribunals, and they alone were taught in the academies of Rome, Conſtantinople, and Berytus. Juſtinian addreſſed to the ſenate and provinces, his *eternal oracles*; and his pride, under the maſk of piety, aſcribed the conſummation of this great deſign to the ſupport and inſpiration of the Deity.

Praiſe and cenſure of the Code and Pandects.

Since the emperor declined the fame and envy of original compoſition, we can only require at his hands, method, choice, and fidelity, the humble, though indiſpenſable, virtues of a compiler. Among the various combinations of ideas, it is difficult to aſſign any reaſonable preference; but as the order of Juſtinian is different in his three works, it is poſſible that all may be wrong; and it is certain that two cannot be right. In the ſelection of ancient laws, he ſeems to have viewed his predeceſſors without jealouſy, and with equal regard: the ſeries could not aſcend above the reign of Hadrian, and the narrow diſtinction of Paganiſm and Chriſtianity, introduced by the ſuperſtition of Theodoſius, had been aboliſhed by the conſent of mankind. But the juriſprudence of the Pandects is circumſcribed within a period of an hundred years, from the perpetual edict to the death of Severus Alexander: the civilians who lived under the firſt Cæſars, are ſeldom permitted to ſpeak, and only three names can be attributed to the age of the republic.

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The favourite of Juſtinian (it has been fiercely urged) was fearful of encountering the light of freedom and the gravity of Roman ſages. Tribonian condemned to oblivion the genuine and native wiſdom of Cato, the Scævolas, and Sulpicius; while he invoked ſpirits more congenial to his own, the Syrians, Greeks, and Africans, who flocked to the Imperial court to ſtudy Latin as a foreign tongue, and juriſprudence as a lucrative profeſſion. But the miniſters of Juſtinian[78] were inſtructed to labour, not for the curioſity of antiquarians, but for the immediate benefit of his ſubjects. It was their duty to ſelect the uſeful and practical parts of the Roman law; and the writings of the old republicans, however curious or excellent, were no longer ſuited to the new ſyſtem of manners, religion, and government. Perhaps, if the preceptors and friends of Cicero were ſtill alive, our candour would acknowledge, that, except in purity of language[79], their intrinſic merit was excelled by the ſchool of Papinian and Ulpian. The ſcience of the laws is the ſlow growth of time and experience, and the advantage both of method and ma-

78 An ingenious and learned oration of Schultingius (Juriſprudentia Ante-Juſtinianea, p. 883—907.) juſtifies the choice of Tribonian, againſt the paſſionate charges of Francis Hottoman and his ſectaries.

79 Strip away the cruſt of Tribonian, and allow for the uſe of technical words, and the Latin of the Pandects will be found not unworthy of the *ſilver* age. It has been vehemently attacked by Laurentius Valla, a faſtidious grammarian of the xvth century, and by his apologiſt Floridus Sabinus. It has been defended by Alciat and a nameleſs advocate (moſt probably James Capellus). Their various treatiſes are collected by Duker (Opuſcula de Latinitate veterum Juriſconſultorum, Lugd. Bat. 1721, in 12mo).

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terials, is naturally aſſumed by the moſt recent authors. The civilians of the reign of the Antonines had ſtudied the works of their predeceſſors: their philoſophic ſpirit had mitigated the rigour of antiquity, ſimplified the forms of proceeding, and emerged from the jealouſy and prejudice of the rival ſects. The choice of the authorities that compoſe the Pandects, depended on the judgment of Tribonian: but the power of his ſovereign could not abſolve him from the ſacred obligations of truth and fidelity. As the legiſlator of the empire, Juſtinian might repeal the acts of the Antonines, or condemn, as ſeditious, the free principles, which were maintained by the laſt of the *Roman* lawyers [80]. But the exiſtence of paſt facts is placed beyond the reach of deſpotiſm; and the emperor was guilty of fraud and forgery, when he corrupted the integrity of their text, inſcribed with their venerable names the words and ideas of his ſervile reign [81], and ſuppreſſed, by the hand of power, the pure and authentic copies of their ſentiments. The changes and interpolations of Tribonian and his colleagues are excuſed by the pretence of uniformity: but their cares have been inſufficient, and the *antinomies*, or contradictions

[80] Nomina quidem veteribus ſervavimus, legum autem veritatem noſtram fecimus. Itaque ſiquid erat in illis *ſeditioſum*, multa autem talia erant ibi repoſita, hoc deciſum eſt et definitum, et in perſpicuum finem deducta eſt quæque lex (Cod. Juſtinian. l. i. tit. xvii. leg. 3. N° 10.). A frank confeſſion!

[81] The number of theſe *emblemata* (a polite name for forgeries) is much reduced by Bynkerſhoek (in the iv laſt books of his obſervations), who poorly maintains the right of Juſtinian and the duty of Tribonian.

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of the Code and Pandects, ſtill exerciſe the patience and ſubtlety of modern civilians [82].

Loſs of the ancient juriſprudence.

A rumour devoid of evidence has been propagated by the enemies of Juſtinian; that the juriſprudence of ancient Rome was reduced to aſhes by the author of the Pandects, from the vain perſuaſion, that it was now either falſe or ſuperfluous. Without uſurping an office ſo invidious, the emperor might ſafely commit to ignorance and time the accompliſhment of this deſtructive wiſh. Before the invention of printing and paper, the labour and the materials of writing could be purchaſed only by the rich; and it may reaſonably be computed, that the price of books was an hundred fold their preſent value [83]. Copies were ſlowly multiplied and cautiouſly renewed: the hopes of profit tempted the ſacrilegious ſcribes to eraze the characters of antiquity, and Sophocles or Tacitus were obliged to reſign the parchment to miſſals, homilies, and the golden legend [84]. If ſuch was

[82] The *antinomies*, or oppoſite laws of the Code and Pandects, are ſometimes the cauſe, and often the excuſe, of the glorious uncertainty of the civil law, which ſo often affords what Montaigne calls "Queſtions pour l'Ami." See a fine paſſage of Franciſcus Balduinus in Juſtinian (l. ii. p. 259, &c. apud Ludewig, p. 305, 306.).

[83] When Fuſt, or Fauſtus, ſold at Paris his firſt printed bibles as manuſcripts, the price of a parchment copy was reduced from four or five hundred to ſixty, fifty, and forty crowns. The public was at firſt pleaſed with the cheapneſs, and at length provoked by the diſcovery of the fraud (Mattaire, Annal. Typograph. tom. i. p. 12.; firſt edition).

[84] This execrable practice prevailed from the viiith, and more eſpecially from the xiith, century, when it became almoſt univerſal (Montfaucon, in the Memoires de l'Academie, tom. vi. p. 606, &c. Bibliothéque Raiſonnée de la Diplomatique, tom. i. p. 176.).

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the fate of the moſt beautiful compoſitions of genius, what ſtability could be expected for the dull and barren works of an obſolete ſcience? The books of juriſprudence were intereſting to few, and entertaining to none: their value was connected with preſent uſe, and they ſunk for ever as ſoon as that uſe was ſuperſeded by the innovations of faſhion, ſuperior merit, or public authority. In the age of peace and learning, between Cicero and the laſt of the Antonines, many loſſes had been already ſuſtained, and ſome luminaries of the ſchool, or forum, were known only to the curious by tradition and report. Three hundred and ſixty years of diſorder and decay accelerated the progreſs of oblivion; and it may fairly be preſumed, that of the writings, which Juſtinian is accuſed of neglecting, many were no longer to be found in the libraries of the Eaſt [85]. The copies of Papinian or Ulpian, which the reformer had proſcribed, were deemed unworthy of future notice; the twelve tables and prætorian edict inſenſibly vaniſhed, and the monuments of ancient Rome were neglected or deſtroyed by the envy

[85] Pomponius (Pandect. l. i. tit. ii. leg. 2.) obſerves, that of the three founders of the civil law, Mucius, Brutus, and Manilius, extant volumina, ſcripta Manilii monumenta; that of ſome old republican lawyers, hæc verſantur eorum ſcripta inter manus hominum. Eight of the Auguſtan ſages were reduced to a compendium: of Caſcellius, ſcripta non extant ſed unus liber, &c.; of Trebatius, minus frequentantur; of Tubero, libri parum grati ſunt. Many quotations in the Pandects are derived from books which Tribonian never ſaw; and, in the long period from the viiᵗʰ to the xiiiᵗʰ century of Rome, the *apparent* reading of the moderns ſucceſſively depends on the knowledge and veracity of their predeceſſors.

and

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and ignorance of the Greeks. Even the Pandects themſelves have eſcaped with difficulty and danger from the common ſhipwreck, and criticiſm has pronounced, that *all* the editions and manuſcripts of the Weſt are derived from *one* original [86]. It was tranſcribed at Conſtantinople in the beginning of the ſeventh century [87], was ſucceſſively tranſported by the accidents of war and commerce to Amalphi [88], Piſa [89], and Florence [90], and is now

[86] *All*, in ſeveral inſtances, repeat the errors of the ſcribe and the tranſpoſitions of ſome leaves in the Florentine Pandects. This fact, if it be true, is deciſive. Yet the Pandects are quoted by Ivo of Chartres (who died in 1117), by Theobald, archbiſhop of Canterbury, and by Vacarius, our firſt profeſſor, in the year 1140 (Selden ad Fletam, c. 7. tom. ii. p. 1080—1085.). Have our Britiſh MSS. of the Pandects been collated?

[87] See the deſcription of this original in Brenckman (Hiſt. Pandect. Florent. l. i. c. 2, 3. p. 4—17. and l. ii.). Politian, an enthuſiaſt, revered it as the authentic ſtandard of Juſtinian himſelf (p. 407, 408.); but this paradox is refuted by the abbreviations of the Florentine MS. (l. ii. c. 3. p. 117—130.). It is compoſed of two quarto volumes, with large margins, on a thin parchment, and the Latin characters betray the hand of a Greek ſcribe.

[88] Brenckman, at the end of his hiſtory, has inſerted two diſſertations, on the republic of Amalphi, and the Piſan war in the year 1135, &c.

[89] The diſcovery of the Pandects at Amalphi (A. D. 1137) is firſt noticed (in 1501) by Ludovicus Bologninus (Brenckman, l. i. c. xi. p. 73, 74. l. iv. c. 2. p. 417—425.), on the faith of a Piſan chronicle (p. 409, 410.), without a name or a date. The whole ſtory, though unknown to the xiith century, embelliſhed by ignorant ages, and ſuſpected by rigid criticiſm, is not, however, deſtitute of much internal probability (l. i. c. 4—8. p. 17—50.). The Liber Pandectarum of Piſa was undoubtedly conſulted in the xivth century by the great Bartolus (p. 406, 407. See l. i. c. 9. p. 50—62.).

[90] Piſa was taken by the Florentines in the year 1406; and in 1411 the Pandects were tranſported to the capital. Theſe events are authentic and famous.

depoſited

depoſited as a ſacred relic [91] in the ancient palace of the republic [92].

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It is the firſt care of a reformer to prevent any future reformation. To maintain the text of the Pandects, the Inſtitutes, and the Code, the uſe of cyphers and abbreviations was rigorouſly proſcribed; and as Juſtinian recollected, that the perpetual edict had been buried under the weight of commentators, he denounced the puniſhment of forgery againſt the raſh civilians who ſhould preſume to interpret or pervert the will of their ſovereign. The ſcholars of Accurſius, of Bartolus, of Cujacius, ſhould bluſh for their accumulated guilt, unleſs they dare to diſpute his right of binding the authority of his ſucceſſors, and the native freedom of the mind. But the emperor was unable to fix his own inconſtancy; and, while he boaſted of renewing the exchange of Diomede, of tranſmuting braſs into gold [93], he diſcovered the neceſſity of purifying his gold from the mixture of

Legal inconſtancy of Juſtinian.

[91] They were new bound in purple, depoſited in a rich caſket, and ſhewn to curious travellers by the monks and magiſtrates bareheaded, and with lighted tapers (Brenckman, l. i. c. 10, 11, 12. p. 62—93.).

[92] After the collations of Politian, Bologninus, and Antoninus Auguſtinus, and the ſplendid edition of the Pandects by Taurellus (in 1551), Henry Brenckman, a Dutchman, undertook a pilgrimage to Florence, where he employed ſeveral years in the ſtudy of a ſingle manuſcript. His Hiſtoria Pandectarum Florentinorum (Utrecht, 1722, in 4to), though a monument of induſtry, is a ſmall portion of his original deſign.

[93] Χρυσια χαλκειων, ἑκατομβοι ἐννεαβοιων, apud Homerum patrem omnis virtutis (1st Præfat. ad Pandect.). A line of Milton or Taſſo would ſurpriſe us in an act of parliament. Quæ omnia obtinere ſancimus in omne ævum. Of the firſt Code, he ſays (2d Præfat.), in æternum valiturum. Man and for ever!

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baſer alloy. Six years had not elapſed from the publication of the Code, before he condemned the imperfect attempt, by a new and more accurate edition of the ſame work; which he enriched with two hundred of his own laws, and fifty deciſions of the darkeſt and moſt intricate points of juriſprudence. Every year, or, according to Procopius, each day, of his long reign, was marked by ſome legal innovation. Many of his acts were reſcinded by himſelf; many were rejected by his ſucceſſors, many have been obliterated by time; but the number of ſixteen EDICTS, and one hundred and ſixty-eight NOVELS [94], has been admitted into the authentic body of the civil juriſprudence. In the opinion of a philoſopher ſuperior to the prejudices of his profeſſion, theſe inceſſant, and, for the moſt part trifling, alterations, can be only explained by the venal ſpirit of a prince, who ſold without ſhame his judgments and his laws [95]. The charge of the ſecret hiſtorian is indeed explicit and vehement; but the ſole inſtance, which he produces, may be aſcribed to the devotion as well as to the avarice of Juſtinian. A wealthy bigot had bequeathed his inheritance to the church of Emeſa; and its value was enhanced by the dexterity of an

Second edition of the Code, A. D. 534, Nov. 16.

The Novels, A. D. 534—565.

94 *Novellæ* is a claſſic adjective, but a barbarous ſubſtantive (Ludewig, p. 245.). Juſtinian never collected them himſelf: the nine collations, the legal ſtandard of modern tribunals, conſiſt of ninety-eight Novels; but the number was increaſed by the diligence of Julian, Haloander, and Contius (Ludewig, p. 249. 258. Aleman. Not. in Anecdot. p. 98.).

95 Monteſquieu, Conſiderations ſur la Grandeur et la Decadence des Romains, c. 20. tom. iii. p. 501. in 4to. On this occaſion he throws aſide the gown and cap of a Preſident à Mortier.

artiſt,

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artiſt, who ſubſcribed confeſſions of debt and promiſes of payment with the names of the richeſt Syrians. They pleaded the eſtabliſhed preſciption of thirty or forty years; but their defence was over-ruled by a retroſpective edict, which extended the claims of the church to the term of a century; an edict ſo pregnant with injuſtice and diſorder, that after ſerving this occaſional purpoſe, it was prudently aboliſhed in the ſame reign [96]. If candour will acquit the emperor himſelf, and transfer the corruption to his wife and favourites, the ſuſpicion of ſo foul a vice muſt ſtill degrade the majeſty of his laws; and the advocates of Juſtinian may acknowledge, that ſuch levity, whatſoever be the motive, is unworthy of a legiſlator and a man.

The Inſtitutes, A. D. 533, Nov. 21.

Monarchs ſeldom condeſcend to become the preceptors of their ſubjects; and ſome praiſe is due to Juſtinian, by whoſe command an ample ſyſtem was reduced to a ſhort and elementary treatiſe. Among the various inſtitutes of the Roman law [97], thoſe of Caius [98] were the moſt popular in the Eaſt and Weſt; and their uſe may

96 Procopius, Anecdot. c. 28. A ſimilar privilege was granted to the church of Rome (Novel. ix.). For the general repeal of theſe miſchievous indulgences, ſee Novel. cxi. and Edict. v.

97 Lactantius, in his Inſtitutes of Chriſtianity, an elegant and ſpecious work, propoſes to imitate the title and method of the civilians. Quidam prudentes et arbitri æquitatis Inſtitutiones Civilis Juris compoſitas ediderunt (Inſtitut. Divin. l. i. c. 1.). Such as Ulpian, Paul, Florentinus, Marcian.

98 The emperor Juſtinian calls him *ſuum*, though he died before the end of the ſecond century. His Inſtitutes are quoted by Servius, Boethius, Priſcian, &c. and the Epitome by Arrian is ſtill extant. (See the Prolegomena and Notes to the edition of Schulting, in the Juriſprudentia Ante-Juſtinianea, Lugd. Bat. 1717. Heineccius, Hiſt. J. R. N° 313. Ludewig, in Vit. Juſt. p. 199.).

be

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be conſidered as an evidence of their merit. They were ſelected by the Imperial delegates, Tribonian, Theophilus, and Dorotheus: and the freedom and purity of the Antonines was incruſted with the coarſer materials of a degenerate age. The ſame volume which introduced the youth of Rome, Conſtantinople, and Berytus, to the gradual ſtudy of the Code and Pandects, is ſtill precious to the hiſtorian, the philoſopher, and the magiſtrate. The INSTITUTES of Juſtinian are divided into four books; they proceed, with no contemptible method, from, I. *Perſons*, to, II. *Things*, and from things, to, III. *Actions*; and the article IV. of *Private Wrongs*, is terminated by the principles of *Criminal Law*.

I. OF PERSONS. Freemen and ſlaves.

I. The diſtinction of ranks and *perſons*, is the firmeſt baſis of a mixed and limited government. In France, the remains of liberty are kept alive by the ſpirit, the honours, and even the prejudices, of fifty thouſand nobles [99]. Two hundred families ſupply, in lineal deſcent, the ſecond branch of the Engliſh legiſlature, which maintains, between the king and commons, the balance of the conſtitution. A gradation of patricians and plebeians, of ſtrangers and ſubjects, has ſupported the ariſtocracy of Genoa, Venice, and ancient Rome. The perfect equality of men is the point in which the ex-

99 See the Annales Politiques de l' Abbé de St. Pierre, tom. i. p. 25. who dates in the year 1735. The moſt ancient families claim the immemorial poſſeſſion of arms and fiefs. Since the Cruſades, ſome, the moſt truly reſpectable, have been created by the king for merit and ſervices. The recent and vulgar crowd is derived from the multitude of venal offices without truſt or dignity, which continually ennoble the wealthy plebeians.

tremes of democracy and deſpotiſm are confounded; ſince the majeſty of the prince or people would be offended, if any heads were exalted above the level of their fellow-ſlaves or fellow-citizens. In the decline of the Roman empire, the proud diſtinctions of the republic were gradually aboliſhed, and the reaſon or inſtinct of Juſtinian completed the ſimple form of an abſolute monarchy. The emperor could not eradicate the popular reverence which always waits on the poſſeſſion of hereditary wealth or the memory of famous anceſtors. He delighted to honour with titles and emoluments, his generals, magiſtrates, and ſenators; and his precarious indulgence communicated ſome rays of their glory to the perſons of their wives and children. But in the eye of the law, all Roman citizens were equal, and all ſubjects of the empire were citizens of Rome. That ineſtimable character was degraded to an obſolete and empty name. The voice of a Roman could no longer enact his laws, or create the annual miniſters of his power: his conſtitutional rights might have checked the arbitrary will of a maſter; and the bold adventurer from Germany or Arabia was admitted, with equal favour, to the civil and military command, which the citizen alone had been once entitled to aſſume over the conqueſts of his fathers. The firſt Cæſars had ſcrupulouſly guarded the diſtinction of *ingenuous*, and *ſervile* birth, which was decided by the condition of the mother; and the candour of the laws was ſatisfied, if *her* freedom could be aſcertained during a ſingle moment between the conception and the delivery.

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The ſlaves, who were liberated by a generous maſter, immediately entered into the middle claſs of *libertines* or freedmen: but they could never be enfranchiſed from the duties of obedience and gratitude: whatever were the fruits of their induſtry, their patron and his family inherited the third part; or even the whole of their fortune, if they died without children and without a teſtament. Juſtinian reſpected the rights of patrons; but his indulgence removed the badge of diſgrace from the two inferior orders of freedmen: whoever ceaſed to be a ſlave, obtained, without reſerve or delay, the ſtation of a citizen; and at length the dignity of an ingenuous birth, which nature had refuſed, was created, or ſuppoſed, by the omnipotence of the emperor. Whatever reſtraints of age, or forms, or numbers, had been formerly introduced to check the abuſe of manumiſſions, and the too rapid increaſe of vile and indigent Romans, he finally aboliſhed; and the ſpirit of his laws promoted the extinction of domeſtic ſervitude. Yet the eaſtern provinces were filled, in the time of Juſtinian, with multitudes of ſlaves, either born or purchaſed for the uſe of their maſters; and the price, from ten to ſeventy pieces of gold, was determined by their age, their ſtrength, and their education [100]. But the hardſhips of this dependent

[100] If the option of a ſlave was bequeathed to ſeveral legatees, they drew lots, and the loſers were entitled to their ſhare of his value: ten pieces of gold for a common ſervant or maid under ten years; if above that age, twenty; if they knew a trade, thirty; notaries or writers, fifty; midwives or *phyſicians*, ſixty; eunuchs under ten years, thirty pieces; above, fifty; if tradeſmen, ſeventy (Cod. l. vi. tit. xliii. leg. 3.). Theſe legal prices are generally below thoſe of the market.

ſtate

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ſtate were continually diminiſhed by the influence of government and religion; and the pride of a ſubject was no longer elated by his abſolute dominion over the life and happineſs of his bondſman [101].

Fathers and children.

The law of nature inſtructs moſt animals to cheriſh and educate their infant progeny. The law of reaſon inculcates to the human ſpecies the returns of filial piety. But the excluſive, abſolute, and perpetual dominion of the father over his children, is peculiar to the Roman juriſprudence [102], and ſeems to be coëval with the foundation of the city [103]. The paternal power was inſtituted or confirmed by Romulus himſelf; and after the practice of three centuries, it was inſcribed on the fourth table of the Decemvirs. In the forum, the ſenate, or the camp, the adult ſon

[101] For the ſtate of ſlaves and freedmen, ſee Inſtitutes, l. i. tit. iii.—viii. l. ii. tit. ix. l. iii. tit. viii, ix. Pandects or Digeſt, l. i. tit. v, vi. l. xxxviii. tit. i—iv. and the whole of the xlth book. Code, l. vi. tit. iv, v. l. vii. tit. i—xxiii. Be it henceforwards underſtood that, with the original text of the Inſtitutes and Pandects, the correſpondent articles in the Antiquities and Elements of Heineccius are implicitly quoted; and, with the xxvii firſt books of the Pandects, the learned and rational Commentaries of Gerard Noodt (Opera, tom. ii. p. 1—590. the end. Lugd. Bat. 1724).

[102] See the patria poteſtas in the Inſtitutes (l. i. tit. ix.), the Pandects (l. i. tit. vi, vii.), and the Code (l. viii. tit. xlvii, xlviii, xlix.). Jus poteſtatis quod in liberos habemus proprium eſt civium Romanorum. Nulli enim alii ſunt homines, qui talem in liberos habeant poteſtatem qualem nos habemus.

[103] Dionyſius Hal. l. ii. p. 94, 95. Gravina (Opp. p. 286.) produces the words of the xii tables. Papinian (in Collatione Legum Roman. et Moſaicarum, tit. iv. p. 204.) ſtyles this patria poteſtas, lex regia: Ulpian (ad Sabin. l. xxvi. in Pandect. l. i. tit. vi. leg. 8.) ſays, jus poteſtatis moribus receptum; and furioſus filium in poteſtate habebit. How ſacred—or rather how abſurd!

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of a Roman citizen enjoyed the public and private rights of a *perſon*: in his father's houſe, he was a mere *thing*; confounded by the laws with the moveables, the cattle, and the ſlaves, whom the capricious maſter might alienate or deſtroy, without being reſponſible to any earthly tribunal. The hand which beſtowed the daily ſuſtenance might reſume the voluntary gift, and whatever was acquired by the labour or fortune of the ſon, was immediately loſt in the property of the father. His ſtolen goods (his oxen or his children) might be recovered by the ſame action of theft [104]; and if either had been guilty of a treſpaſs, it was in his own option to compenſate the damage, or reſign to the injured party the obnoxious animal. At the call of indigence or avarice, the maſter of a family could diſpoſe of his children or his ſlaves. But the condition of the ſlave was far more advantageous, ſince he regained by the firſt manumiſſion his alienated freedom: the ſon was again reſtored to his unnatural father; he might be condemned to ſervitude a ſecond and a third time, and it was not till after the third ſale and deliverance [105], that he was enfranchiſed from the domeſtic power, which had been ſo repeatedly abuſed. According to his diſcretion, a father might chaſtiſe the real or imaginary faults of his children, by ſtripes, by impriſonment, by exile, by ſending

104 Pandect. l. xlvii. tit. ii. leg. 14. N° 13. leg. 38. N° 1. Such was the deciſion of Ulpian and Paul.

105 The trina mancipatio is moſt clearly defined by Ulpian (Fragment. x. p. 591, 592. edit. Schulting); and beſt illuſtrated in the Antiquities of Heineccius.

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them to the country to work in chains among the meaneſt of his ſervants. The majeſty of a parent was armed with the power of life and death [106]; and the examples of ſuch bloody executions, which were ſometimes praiſed and never puniſhed, may be traced in the annals of Rome, beyond the times of Pompey and Auguſtus. Neither age, nor rank, nor the conſular office, nor the honours of a triumph, could exempt the moſt illuſtrious citizen from the bonds of filial ſubjection [107]: his own deſcendants were included in the family of their common anceſtor; and the claims of adoption were not leſs ſacred or leſs rigorous than thoſe of nature. Without fear, though not without danger of abuſe, the Roman legiſlators had repoſed an unbounded confidence in the ſentiments of paternal love; and the oppreſſion was tempered by the aſſurance, that each generation muſt ſucceed in its turn to the awful dignity of parent and maſter.

Limitations of the paternal authority.

The firſt limitation of paternal power is aſcribed to the juſtice and humanity of Numa: and the

[106] By Juſtinian, the old law, the jus necis of the Roman father (Inſtitut. l. iv. tit. ix. N° 7.), is reported and reprobated. Some legal veſtiges are left in the Pandects (l. xliii. tit. xxix. leg. 3. N° 4.) and the Collatio Legum Romanarum et Moſaicarum (tit. ii. N° 3. p. 189.).

[107] Except on public occaſions, and in the actual exerciſe of his office. In publicis locis atque muneribus, atque actionibus patrum, jura cum filiorum qui in magiſtratû ſunt, poteſtatibus collata interquieſcere paullulum et connivere, &c. (Aul. Gellius, Noctes Atticæ, ii. 2.). The leſſons of the philoſopher Taurus were juſtified by the old and memorable example of Fabius; and we may contemplate the ſame ſtory in the ſtyle of Livy (xxiv. 44.) and the homely idiom of Claudius Quadrigarius the annaliſt.

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maid who, with *his* father's conſent, had eſpouſed a freeman, was protected from the diſgrace of becoming the wife of a ſlave. In the firſt ages, when the city was preſſed and often famiſhed by her Latin and Tuſcan neighbours, the ſale of children might be a frequent practice; but as a Roman could not legally purchaſe the liberty of his fellow-citizen, the market muſt gradually fail, and the trade would be deſtroyed by the conqueſt of the republic. An imperfect right of property was at length communicated to ſons; and the threefold diſtinction of *profectitious*, *adventitious*, and *profeſſional*, was aſcertained by the juriſprudence of the Code and Pandects [108]. Of all that proceeded from the father, he imparted only the uſe, and reſerved the abſolute dominion; yet if his goods were ſold, the filial portion was excepted, by a favourable interpretation, from the demands of the creditors. In whatever accrued by marriage, gift, or collateral ſucceſſion, the property was ſecured to the ſon; but the father, unleſs he had been ſpecially excluded, enjoyed the uſufruct during his life. As a juſt and prudent reward of military virtue, the ſpoils of the enemy were acquired, poſſeſſed, and bequeathed by the ſoldier alone; and the fair analogy was extended to the emoluments of any liberal profeſſion, the ſalary of public ſervice, and the ſacred liberality of the emperor or the empreſs. The life of a citizen

[108] See the gradual enlargement and ſecurity of the filial *peculium* in the Inſtitutes (l. ii. tit. ix.), the Pandects (l. xv. tit. i. l. xli. tit. i.), and the Code (l. iv. tit. xxvi, xxvii.).

was

was leſs expoſed than his fortune to the abuſe of paternal power. Yet his life might be adverſe to the intereſt or paſſions of an unworthy father: the ſame crimes that flowed from the corruption, were more ſenſibly felt by the humanity, of the Auguſtan age; and the cruel Erixo, who whipt his ſon till he expired, was ſaved by the emperor from the juſt fury of the multitude [109]. The Roman father, from the licenſe of ſervile dominion, was reduced to the gravity and moderation of a judge. The preſence and opinion of Auguſtus confirmed the ſentence of exile pronounced againſt an intentional parricide by the domeſtic tribunal of Arius. Hadrian tranſported to an iſland the jealous parent, who, like a robber, had ſeized the opportunity of hunting, to aſſaſſinate a youth, the inceſtuous lover of his ſtepmother [110]. A private juriſdiction is repugnant to the ſpirit of monarchy; the parent was again reduced from a judge to an accuſer; and the magiſtrates were enjoined by Severus Alexander to hear his complaints and execute his ſentence. He could no longer take the life of a ſon without incurring the guilt and puniſhment of murder; and the pains of parricide, from which he had been excepted by the Pompeian law, were finally inflicted by the juſtice of Con-

109 The examples of Erixo and Arius are related by Seneca (de Clementia, i. 14, 15.), the former with horror, the latter with applauſe.

110 Quôd latronis magis quam patris jure eum interfecit, nam patria poteſtas in pietate debet non in atrocitate conſiſtere (Marcian, Inſtitut. l. xiv. in Pandect. l. xlviii. tit. ix. leg. 5.).

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ſtantine [111]. The ſame protection was due to every period of exiſtence; and reaſon muſt applaud the humanity of Paulus, for imputing the crime of murder to the father, who ſtrangles, or ſtarves, or abandons his new-born infant; or expoſes him in a public place to find the mercy which he himſelf had denied. But the expoſition of children was the prevailing and ſtubborn vice of antiquity: it was ſometimes preſcribed, often permitted, almoſt always practiſed with impunity, by the nations who never entertained the Roman ideas of paternal power; and the dramatic poets, who appeal to the human heart, repreſent with indifference a popular cuſtom which was palliated by the motives of œconomy and compaſſion [112]. If the father could ſubdue his own feelings, he might eſcape, though not the cenſure, at leaſt the chaſtiſement of the laws; and the Roman empire was ſtained with the blood of infants, till ſuch murders were included, by Valentinian and his colleagues, in the letter and ſpirit of the Cornelian law. The leſſons of juriſ-

[111] The Pompeian and Cornelian laws de *ſicariis* and *parricidis*, are repeated, or rather abridged, with the laſt ſupplements of Alexander Severus, Conſtantine, and Valentinian, in the Pandects (l. xlviii. tit. viii, ix.) and Code (l. ix. tit. xvi, xvii.). See likewiſe the Theodoſian Code (l. ix. tit. xiv, xv.), with Godefroy's Commentary (tom. iii. p. 84—113.), who pours a flood of ancient and modern learning over theſe penal laws.

[112] When the Chremes of Terence reproaches his wife for not obeying his orders and expoſing their infant, he ſpeaks like a father and a maſter, and ſilences the ſcruples of a fooliſh woman. See Apuleius (Metamorph. l. x. p. 337. edit. Delphin.).

prudence

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prudence [113] and chriſtianity had been inſufficient to eradicate this inhuman practice, till their gentle influence was fortified by the terrors of capital puniſhment [114].

Husbands and wives.

Experience has proved, that ſavages are the tyrants of the female ſex, and that the condition of women is uſually ſoftened by the refinements of ſocial life. In the hope of a robuſt progeny, Lycurgus had delayed the ſeaſon of marriage: it was fixed by Numa at the tender age of twelve years, that the Roman huſband might educate to his will a pure and obedient virgin [115]. According to the cuſtom of antiquity, he bought his bride of her parents, and ſhe fulfilled the *coemption*, by purchaſing, with three pieces of copper, a juſt introduction to his houſe and houſehold deities. A ſacrifice of fruits was offered by the pontiffs in the preſence of ten witneſſes; the contracting parties

The religious rites of marriage.

[113] The opinion of the lawyers, and the diſcretion of the magiſtrates, had introduced in the time of Tacitus ſome legal reſtraints, which might ſupport his contraſt of the boni mores of the Germans to the bonæ leges alibi—that is to ſay, at Rome (de Moribus Germanorum, c. 19.). Tertullian (ad Nationes, l. i. c. 15.) refutes his own charges and thoſe of his brethren, againſt the heathen juriſprudence.

[114] The wiſe and humane ſentence of the civilian Paul (l. ii. Sententiarum in Pandect. l. xxv. tit. iii. leg. 4.) is repreſented as a mere moral precept by Gerard Noodt (Opp. tom. i. in Julius Paullus, p. 567—588. and Amica Reſponſio, p. 591—606.), who maintains the opinion of Juſtus Lipſius (Opp. tom. ii. p. 409. ad Belgas, cent. i. epiſt. 85.), and as a poſitive binding law by Bynkerſhoek (de Jure occidendi Liberos, Opp. tom. i. p. 318—340. Curæ Secundæ, p. 391—427.). In a learned but angry controverſy the two friends deviated into the oppoſite extremes.

[115] Dionyſ. Hal. l. ii. p. 92, 93. Plutarch, in Numa, p. 140, 141. Το σωμα και το ηθος καθαρον και αθικτον επι τη γαμουντι γενεσθαι.

were

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were ſeated on the ſame ſheepſkin; they taſted a ſalt cake of *far* or rice; and this *confarreation* [116], which denoted the ancient food of Italy, ſerved as an emblem of their myſtic union of mind and body. But this union on the ſide of the woman was rigorous and unequal; and ſhe renounced the name and worſhip of her father's houſe, to embrace a new ſervitude, decorated only by the title of adoption. A fiction of the law, neither rational nor elegant, beſtowed on the mother of a family [117] (her proper appellation) the ſtrange characters of ſiſter to her own children, and of daughter to her huſband or maſter, who was inveſted with the plenitude of paternal power. By his judgment or caprice her behaviour was approved, or cenſured, or chaſtiſed; he exerciſed the juriſdiction of life and death; and it was allowed, that in the caſes of adultery or drunkenneſs [118], the ſentence might be properly inflicted. She acquired and inherited for the ſole profit of her lord; and ſo clearly was woman defined, not as a *perſon*, but as a *thing*, that, if the original title were deficient, ſhe might be claimed, like other moveables, by the *uſe* and poſ-

[116] Among the winter *frumenta*, the *triticum*, or bearded wheat; the *ſiligo*, or the unbearded; the *far*, *adorea*, *oryza*, whoſe deſcription perfectly tallies with the rice of Spain and Italy. I adopt this identity on the credit of M. Paucton in his uſeful and laborious Metrologie (p. 517—529.).

[117] Aulus Gellius (Noctes Atticæ, xviii. 6.) gives a ridiculous definition of Ælius Meliſſus, Matrona, quæ ſemel, *materfamilias* quæ ſæpius peperit, as porcetra and ſcropha in the ſow kind. He then adds the genuine meaning, quæ in matrimonium vel in manum convenerat.

[118] It was enough to have taſted wine, or to have ſtolen the key of the cellar (Plin. Hiſt. Nat. xiv. 14.).

ſeſſion

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ſeſſion of an entire year. The inclination of the Roman huſband diſcharged or withheld the conjugal debt, ſo ſcrupulouſly exacted by the Athenian and Jewiſh laws [119]: but, as polygamy was unknown, he could never admit to his bed a fairer or more favoured partner.

Freedom of the matrimonial contract.

After the Punic triumphs, the matrons of Rome aſpired to the common benefits of a free and opulent republic: their wiſhes were gratified by the indulgence of fathers and lovers, and their ambition was unſucceſsfully reſiſted by the gravity of Cato the Cenſor [120]. They declined the ſolemnities of the old nuptials, defeated the annual preſcription by an abſence of three days, and, without loſing their name or independence, ſubſcribed the liberal and definite terms of a marriage-contract. Of their private fortunes, they communicated the uſe, and ſecured the property: the eſtates of a wife could neither be alienated nor mortgaged by a prodigal huſband; their mutual gifts were prohibited by the jealouſy of the laws; and the miſconduct

[119] Solon requires three payments per month. By the Miſna, a daily debt was impoſed on an idle, vigorous, young huſband; twice a week on a citizen; once on a peaſant; once in thirty days on a camel-driver; once in ſix months on a ſeaman. But the ſtudent or doctor was free from tribute; and *no* wife, if ſhe received a *weekly* ſuſtenance, could ſue for a divorce: for one week a vow of abſtinence was allowed. Polygamy divided, without multiplying, the duties of the huſband (Selden, Uxor Ebraica, l. iii. c. 6. in his works, vol. ii. p. 717—720.).

[120] On the Oppian law we may hear the mitigating ſpeech of Valerius Flaccus, and the ſevere cenſorial oration of the elder Cato (Liv. xxxiv. 1—8.). But we ſhall rather hear the poliſhed hiſtorian of the eighth, than the rough orators of the ſixth, century of Rome. The principles, and even the ſtyle, of Cato are more accurately preſerved by Aulus Gellius (x. 23.).

of

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of either party might afford, under another name, a future ſubject for an action of theft. To this looſe and voluntary compact, religious and civil rites were no longer eſſential; and, between perſons of a ſimilar rank, the apparent community of life was allowed as ſufficient evidence of their nuptials. The dignity of marriage was reſtored by the Chriſtians, who derived all ſpiritual grace from the prayers of the faithful and the benediction of the prieſt or biſhop. The origin, validity, and duties of the holy inſtitution, were regulated by the tradition of the ſynagogue, the precepts of the goſpel, and the canons of general or provincial ſynods [121]; and the conſcience of the Chriſtians was awed by the decrees and cenſures of their eccleſiaſtical rulers. Yet the magiſtrates of Juſtinian were not ſubject to the authority of the church: the emperor conſulted the unbelieving civilians of antiquity, and the choice of matrimonial laws in the Code and Pandects, is directed by the earthly motives of juſtice, policy, and the natural freedom of both ſexes [122].

Liberty and abuſe of divorce.

Beſides the agreement of the parties, the eſſence of every rational contract, the Roman marriage re-

[121] For the ſyſtem of Jewiſh and Catholic matrimony, ſee Selden (Uxor Ebraica, Opp. vol. ii. p. 529—860.), Bingham (Chriſtian Antiquities, l. xxii.), and Chardon (Hiſt. des Sacremens, tom. vi.).

[122] The civil laws of marriage are expoſed in the Inſtitutes (l. i. tit. x.), the Pandects (l. xxiii, xxiv, xxv.), and the Code (l. v.); but as the title de ritû nuptiarum is yet imperfect, we are obliged to explore the fragments of Ulpian (tit. ix. p. 590, 591.) and the Collatio Legum Moſaicarum (tit. xvi. p. 790, 791.), with the Notes of Pithæus and Schulting. They find, in the Commentary of Servius (on the 1st Georgic and the 4th Æneid), two curious paſſages.

quired

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quired the previous approbation of the parents. A father might be forced by ſome recent laws to ſupply the wants of a mature daughter; but even his inſanity was not generally allowed to ſuperſede the neceſſity of his conſent. The cauſes of the diſſolution of matrimony have varied among the Romans [123]; but the moſt ſolemn ſacrament, the confarreation itſelf, might always be done away by rites of a contrary tendency. In the firſt ages, the father of a family might ſell his children, and his wife was reckoned in the number of his children: the domeſtic judge might pronounce the death of the offender, or his mercy might expel her from his bed and houſe; but the ſlavery of the wretched female was hopeleſs and perpetual, unleſs he aſſerted for his own convenience the manly prerogative of divorce. The warmeſt applauſe has been laviſhed on the virtue of the Romans, who abſtained from the exerciſe of this tempting privilege above five hundred years [124]: but the ſame fact evinces the unequal terms of a connection in which the ſlave was unable to renounce her tyrant, and the tyrant was unwilling to relinquiſh his ſlave. When the

[123] According to Plutarch (p. 57.), Romulus allowed only three grounds of a divorce—drunkenneſs, adultery, and falſe keys. Otherwiſe, the huſband who abuſed his ſupremacy forfeited half his goods to the wife, and half to the goddeſs Ceres, and offered a ſacrifice (with the remainder?) to the terreſtrial deities. This ſtrange law was either imaginary or tranſient.

[124] In the year of Rome 523, Spurius Carvilius Ruga repudiated a fair, a good, but a barren, wife (Dionyſius Hal. l. ii. p. 93. Plutarch, in Numa, p. 141. Valerius Maximus, l. ii. c. 1. Aulus Gellius, iv. 3.). He was queſtioned by the cenſors, and hated by the people; but his divorce ſtood unimpeached in law.

Roman

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Roman matrons became the equal and voluntary companions of their lords, a new juriſprudence was introduced, that marriage, like other partnerſhips, might be diſſolved by the abdication of one of the aſſociates. In three centuries of proſperity and corruption, this principle was enlarged to frequent practice and pernicious abuſe. Paſſion, intereſt, or caprice, ſuggeſted daily motives for the diſſolution of marriage; a word, a ſign, a meſſage, a letter, the mandate of a freedman, declared the ſeparation; the moſt tender of human connections was degraded to a tranſient ſociety of profit or pleaſure. According to the various conditions of life, both ſexes alternately felt the diſgrace and injury: an inconſtant ſpouſe transferred her wealth to a new family, abandoning a numerous, perhaps a ſpurious, progeny to the paternal authority and care of her late huſband; a beautiful virgin might be diſmiſſed to the world, old, indigent, and friendleſs; but the reluctance of the Romans, when they were preſſed to marriage by Auguſtus, ſufficiently marks, that the prevailing inſtitutions were leaſt favourable to the males. A ſpecious theory is confuted by this free and perfect experiment, which demonſtrates, that the liberty of divorce does not contribute to happineſs and virtue. The facility of ſeparation would deſtroy all mutual confidence, and inflame every trifling diſpute: the minute difference between an huſband and a ſtranger, which might ſo eaſily be removed, might ſtill more eaſily be forgotten; and the matron, who in five years can ſubmit to the embraces of eight huſbands, muſt ceaſe

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ceaſe to reverence the chaſtity of her own perſon [125].

Limitations of the liberty of divorce.

Inſufficient remedies followed with diſtant and tardy ſteps the rapid progreſs of the evil. The ancient worſhip of the Romans afforded a peculiar goddeſs to hear and reconcile the complaints of a married life; but her epithet of *Viriplaca* [126], the appeaſer of huſbands, too clearly indicates on which ſide ſubmiſſion and repentance were always expected. Every act of a citizen was ſubject to the judgment of the *cenſors*; the firſt who uſed the privilege of divorce aſſigned, at their command, the motives of his conduct [127]; and a ſenator was expelled for diſmiſſing his virgin ſpouſe without the knowledge or advice of his friends. Whenever an action was inſtituted for the recovery of a marriage-portion, the *prætor*, as the guardian of equity, examined the cauſe and the characters, and gently inclined the ſcale in favour of the guiltleſs and injured party. Auguſtus, who united the powers of both magiſtrates, adopted their different modes of repreſſing

125 ——Sic fiunt octo mariti
Quinque per autumnos. (Juvenal. Satir. vi. 20.)
A rapid ſucceſſion, which may yet be credible, as well as the non conſulum numero, ſed maritorum annos ſuos computant, of Seneca (de Beneficiis, iii. 16.). Jerom ſaw at Rome a triumphant huſband bury his twenty-firſt wife, who had interred twenty-two of his leſs ſturdy predeceſſors (Opp. tom. i. p. 90. ad Gerontiam). But the ten huſbands, in a month of the poet Martial, is an extravagant hyperbole (l. vi. epigram 7.).

126 Sacellum Viriplacæ (Valerius Maximus, l. ii. c. 1.) in the Palatine region appears in the time of Theodoſius, in the deſcription of Rome by Publius Victor.

127 Valerius Maximus, l. ii. c. 9. With ſome propriety he judges divorce more criminal than celibacy: illo namque conjugalia ſacra ſpreta tantum, hoc etiam injurioſe tractata.

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or chaſtiſing the licenſe of divorce [128]. The preſence of ſeven Roman witneſſes was required for the validity of this ſolemn and deliberate act: if any adequate provocation had been given by the huſband, inſtead of the delay of two years, he was compelled to refund immediately, or in the ſpace of ſix months; but if he could arraign the manners of his wife, her guilt or levity was expiated by the loſs of the ſixth or eighth part of her marriage-portion. The Chriſtian princes were the firſt who ſpecified the juſt cauſes of a private divorce; their inſtitutions, from Conſtantine to Juſtinian, appear to fluctuate between the cuſtom of the empire and the wiſhes of the church [129], and the author of the Novels too frequently reforms the juriſprudence of the Code and Pandects. In the moſt rigorous laws, a wife was condemned to ſupport a gameſter, a drunkard, or a libertine, unleſs he were guilty of homicide, poiſon, or ſacrilege, in which caſes the marriage, as it ſhould ſeem, might have been diſſolved by the hand of the executioner. But the ſacred right of the huſband was invariably maintained, to deliver his name and family from the diſgrace of adultery: the liſt of *mortal* ſins, either male or female, was curtailed and enlarged by ſucceſſive regulations, and the obſtacles of incurable impotence, long abſence, and monaſtic

[128] See the laws of Auguſtus and his ſucceſſors, in Heineccius, ad Legem Papiam-Poppæam, c. 19. in Opp. tom. vi. P. i. p. 323—333.

[129] Aliæ ſunt leges Cæſarum, aliæ Chriſti; aliud Papinianus, aliud Paulus *noſter* præcipit (Jerom, tom. i. p. 198. Selden, Uxor Ebraica, l. iii. c. 31. p. 847—853.).

profeſſion,

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profeſſion, were allowed to reſcind the matrimonial obligation. Whoever tranſgreſſed the permiſſion of the law, was ſubject to various and heavy penalties. The woman was ſtript of her wealth and ornaments, without excepting the bodkin of her hair: if the man introduced a new bride into his bed, *her* fortune might be lawfully ſeized by the vengeance of his exiled wife. Forfeiture was ſometimes commuted to a fine; the fine was ſometimes aggravated by tranſportation to an iſland, or impriſonment in a monaſtery: the injured party was releaſed from the bonds of marriage; but the offender, during life or a term of years, was diſabled from the repetition of nuptials. The ſucceſſor of Juſtinian yielded to the prayers of his unhappy ſubjects, and reſtored the liberty of divorce by mutual conſent: the civilians were unanimous[130], the theologians were divided[131], and the ambiguous word, which contains the precept of Chriſt, is flex-

[130] The Inſtitutes are ſilent, but we may conſult the Codes of Theodoſius (l. iii. tit. xvi. with Godefroy's Commentary, tom. i. p. 310—315.) and Juſtinian (l. v. tit. xvii.), the Pandects (l. xxiv. tit. ii.) and the Novels (xxii. cxvii. cxxvii. cxxxiv. cxl.). Juſtinian fluctuated to the laſt between civil and eccleſiaſtical law.

[131] In pure Greek, πορνια is not a common word; nor can the proper meaning, fornication, be ſtrictly applied to matrimonial ſin. In a figurative ſenſe, how far, and to what offences, may it be extended? Did Chriſt ſpeak the Rabbinical or Syriac tongue? Of what original word is πορνια the tranſlation? How variouſly is that Greek word tranſlated in the verſions ancient and modern! There are two (Mark, x. 11. Luke, xvi. 18.) to one (Matthew, xix. 9.) that ſuch ground of divorce was not excepted by Jeſus. Some critics have preſumed to think, by an evaſive anſwer, he avoided the giving offence either to the ſchool of Sammai or to that of Hillel (Selden, Uxor Ebraica, l. iii. c. 18—22. 28. 31.).

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ible to any interpretation that the wiſdom of a legiſlator can demand.

Inceſt, concubines, and baſtards.

The freedom of love and marriage was reſtrained among the Romans by natural and civil impediments. An inſtinct, almoſt innate and univerſal, appears to prohibit the inceſtuous commerce [132] of parents and children in the infinite ſeries of aſcending and deſcending generations. Concerning the oblique and collateral branches, nature is indifferent, reaſon mute, and cuſtom various and arbitrary. In Egypt, the marriage of brothers and ſiſters was admitted without ſcruple or exception: a Spartan might eſpouſe the daughter of his father, an Athenian, that of his mother; and the nuptials of an uncle with his niece were applauded at Athens as an happy union of the deareſt relations. The profane lawgivers of Rome were never tempted by intereſt or ſuperſtition to multiply the forbidden degrees: but they inflexibly condemned the marriage of ſiſters and brothers, heſitated whether firſt couſins ſhould be touched by the ſame interdict; revered the parental character of aunts and uncles, and treated affinity and adoption as a juſt imitation of the ties of blood. According to the proud maxims of the republic, a legal marriage could only be contracted by free citizens; an honourable, at leaſt an ingenuous birth, was required for the

[132] The principles of the Roman juriſprudence are expoſed by Juſtinian (Inſtitut. l. i. tit. x.); and the laws and manners of the different nations of antiquity concerning forbidden degrees, &c. are copiouſly explained by Dr. Taylor in his Elements of Civil Law (p. 108. 314—339.), a work of amuſing, though various, reading; but which cannot be praiſed for philoſophical preciſion.

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ſpouſe of a ſenator: but the blood of kings could never mingle in legitimate nuptials with the blood of a Roman; and the name of Stranger degraded Cleopatra and Berenice [133], to live the *concubines* of Mark Antony and Titus [134]. This appellation, indeed ſo injurious to the majeſty, cannot without indulgence be applied to the manners, of theſe Oriental queens. A concubine, in the ſtrict ſenſe of the civilians, was a woman of ſervile or plebeian extraction, the ſole and faithful companion of a Roman citizen, who continued in a ſtate of celibacy. Her modeſt ſtation below the honours of a wife, above the infamy of a proſtitute, was acknowledged and approved by the laws: from the age of Auguſtus to the tenth century, the uſe of this ſecondary marriage prevailed both in the Weſt and Eaſt, and the humble virtues of a concubine were often preferred to the pomp and inſolence of a noble matron. In this connection, the two Antonines, the beſt of princes and of men, enjoyed the comforts of domeſtic love: the example was imitated by many citizens impatient of celibacy, but regardful of their families. If at any time they deſired to legitimate their natural children, the converſion was inſtantly performed by the celebra-

133 When her father Agrippa died (A. D. 44), Berenice was ſixteen years of age (Joſeph. tom. i. Antiquit. Judaic. l. xix. c. 9. p. 952. edit. Havercamp). She was therefore above fifty years old when Titus (A. D. 79) invitus invitam inviſit. This date would not have adorned the tragedy or paſtoral of the tender Racine.

134 The *Ægyptia conjunx* of Virgil (Æneid, viii. 688.) ſeems to be numbered among the monſters who warred with Mark Antony againſt Auguſtus, the ſenate and the gods of Italy.

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tion of their nuptials with a partner whoſe fruitfulneſs and fidelity they had already tried. By this epithet of *natural*, the offspring of the concubine were diſtinguiſhed from the ſpurious brood of adultery, proſtitution, and inceſt, to whom Juſtinian reluctantly grants the neceſſary aliments of life; and theſe natural children alone were capable of ſucceeding to a ſixth part of the inheritance of their reputed father. According to the rigour of law, baſtards were entitled only to the name and condition of their mother, from whom they might derive the character of a ſlave, a ſtranger, or a citizen. The outcaſts of every family were adopted without reproach as the children of the ſtate [135].

Guardians and wards.

The relation of guardian and ward, or in Roman words of *tutor* and *pupil*, which covers ſo many titles of the Inſtitutes and Pandects [136], is of a very ſimple and uniform nature. The perſon and property of an orphan muſt always be truſted to the cuſtody of ſome diſcreet friend. If the deceaſed father had not ſignified his choice, the *agnats*, or paternal kindred of the neareſt degree, were compelled to act as the natural guardians: the Athenians were apprehenſive of expoſing the infant to the power of thoſe moſt intereſted in his

[135] The humble but legal rights of concubines and natural children, are ſtated in the Inſtitutes (l. i. tit. x.), the Pandects (l. i. tit. vii.), the Code (l. v. tit. xxv.), and the Novels (lxxiv. lxxxix.). The reſearches of Heineccius and Giannone (ad Legem Juliam et Papiam-Poppæam, c. iv. p. 164—175. Opere Poſthume, p. 108—158.) illuſtrate this intereſting and domeſtic ſubject.

[136] See the article of guardians and wards in the Inſtitutes (l. i. tit. xiii—xxvi.), the Pandects (l. xxvi, xxvii.), and the Code (l. v. tit. xxviii—lxx.).

death;

death; but an axiom of Roman juriſprudence has pronounced, that the charge of tutelage ſhould conſtantly attend the emolument of ſucceſſion. If the choice of the father, and the line of conſanguinity, afforded no efficient guardian, the failure was ſupplied by the nomination of the prætor of the city, or the preſident of the province. But the perſon whom they named to this *public* office might be legally excuſed by infanity or blindneſs, by ignorance or inability, by previous enmity or adverſe intereſt, by the number of children or guardianſhips with which he was already burthened, and by the immunities which were granted to the uſeful labours of magiſtrates, lawyers, phyſicians, and profeſſors. Till the infant could ſpeak and think, he was repreſented by the tutor, whoſe authority was finally determined by the age of puberty. Without his conſent, no act of the pupil could bind himſelf to his own prejudice, though it might oblige others for his perſonal benefit. It is needleſs to obſerve, that the tutor often gave ſecurity, and always rendered an account, and that the want of diligence or integrity expoſed him to a civil and almoſt criminal action for the violation of his ſacred truſt. The age of puberty had been raſhly fixed by the civilians at fourteen; but as the faculties of the mind ripen more ſlowly than thoſe of the body, a *curator* was interpoſed to guard the fortunes of a Roman youth from his own inexperience and headſtrong paſſions. Such a truſtee had been firſt inſtituted by the prætor, to ſave a family from the blind havock of a prodigal or

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madman; and the minor was compelled by the laws, to ſolicit the ſame protection, to give validity to his acts till he accompliſhed the full period of twenty-five years. Women were condemned to the perpetual tutelage of parents, huſbands, or guardians; a ſex created to pleaſe and obey was never ſuppoſed to have attained the age of reaſon and experience. Such at leaſt was the ſtern and haughty ſpirit of the ancient law, which had been inſenſibly mollified before the time of Juſtinian.

II. OF THINGS. Right of property.

II. The original right of property can only be juſtified by the accident or merit of prior occupancy; and on this foundation it is wiſely eſtabliſhed by the philoſophy of the civilians [137]. The ſavage who hollows a tree, inſerts a ſharp ſtone into a wooden handle, or applies a ſtring to an elaſtic branch, becomes in a ſtate of nature the juſt proprietor of the canoe, the bow, or the hatchet. The materials were common to all, the new form, the produce of his time and ſimple induſtry, belongs ſolely to himſelf. His hungry brethren cannot, without a ſenſe of their own injuſtice, extort from the hunter the game of the foreſt overtaken or ſlain by his perſonal ſtrength and dexterity. If his provident care preſerves and multiplies the tame animals, whoſe nature is tractable to the arts of education, he acquires a perpetual title to the uſe and ſervice of their numerous progeny, which derives

[137] Inſtitut. l. ii. tit. i, ii. Compare the pure and preciſe reaſoning of Caius and Heineccius (l. ii. tit. i. p. 69—91.) with the looſe prolixity of Theophilus (p. 207—265.). The opinions of Ulpian are preſerved in the Pandects (l. i. tit. viii. leg. 41. N° 1.).

its

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its exiſtence from him alone. If he incloſes and cultivates a field for their ſuſtenance and his own, a barren waſte is converted into a fertile ſoil; the ſeed, the manure, the labour, create a new value, and the rewards of harveſt are painfully earned by the fatigues of the revolving year. In the ſucceſſive ſtates of ſociety, the hunter, the ſhepherd, the huſbandman, may defend their poſſeſſions by two reaſons which forcibly appeal to the feelings of the human mind: that whatever they enjoy is the fruit of their own induſtry; and, that every man who envies their felicity, may purchaſe ſimilar acquiſitions by the exerciſe of ſimilar diligence. Such, in truth, may be the freedom and plenty of a ſmall colony caſt on a fruitful iſland. But the colony multiplies, while the ſpace ſtill continues the ſame: the common rights, the equal inheritance of mankind, are engroſſed by the bold and crafty; each field and foreſt is circumſcribed by the land-marks of a jealous maſter; and it is the peculiar praiſe of the Roman juriſprudence, that it aſſerts the claim of the firſt occupant to the wild animals of the earth, the air, and the waters. In the progreſs from primitive equity to final injuſtice, the ſteps are ſilent, the ſhades are almoſt imperceptible, and the abſolute monopoly is guarded by poſitive laws and artificial reaſon. The active inſatiate principle of ſelf-love can alone ſupply the arts of life and the wages of induſtry; and as ſoon as civil government and excluſive property have been introduced, they become neceſſary to the exiſtence of the human race. Except in the ſingular inſtitutions of Sparta, the wiſeſt legiſlators have diſap-

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proved an agrarian law as a falſe and dangerous innovation. Among the Romans, the enormous diſproportion of wealth ſurmounted the ideal reſtraints of a doubtful tradition and an obſolete ſtatute; a tradition that the pooreſt follower of Romulus had been endowed with the perpetual inheritance of two *jugera* [138], a ſtatute which confined the richeſt citizen to the meaſure of five hundred jugera, or three hundred and twelve acres of land. The original territory of Rome conſiſted only of ſome miles of wood and meadow along the banks of the Tyber; and domeſtic exchange could add nothing to the national ſtock. But the goods of an alien or enemy were lawfully expoſed to the firſt hoſtile occupier; the city was enriched by the profitable trade of war; and the blood of her ſons was the only price that was paid for the Volſcian ſheep, the ſlaves of Britain, or the gems and gold of Aſiatic kingdoms. In the language of ancient juriſprudence, which was corrupted and forgotten before the age of Juſtinian, theſe ſpoils were diſtinguiſhed by the name of *manceps* or *mancipium*, taken with the hand; and whenever they were ſold or *emancipated*, the purchaſer required ſome aſſurance that they had been the property of an enemy, and not of a fellow-citizen [139]. A citizen could only

[138] The *heredium* of the firſt Romans is defined by Varro (de Re Ruſticâ, l. i. c. 2. p. 141. c. 10. p. 160, 161. edit. Geſner), and clouded by Pliny's declamation (Hiſt. Natur. xviii. 2.). A juſt and learned comment is given in the Adminiſtration des Terres chez les Romains (p. 12—66.).

[139] The *res mancipi* is explained from faint and remote lights by Ulpian (Fragment. tit. xviii. p. 618, 619.) and Bynkerſhoek (Opp. tom.

only forfeit his rights by apparent dereliction, and ſuch dereliction of a valuable intereſt could not eaſily be preſumed. Yet according to the twelve tables, a preſcription of one year for moveables, and of two years for immoveables, aboliſhed the claim of the ancient maſter, if the actual poſſeſſor had acquired them by a fair tranſaction from the perſon whom he believed to be the lawful proprietor [140]. Such conſcientious injuſtice, without any mixture of fraud or force, could ſeldom injure the members of a ſmall republic; but the various periods of three, of ten, or of twenty years, determined by Juſtinian, are more ſuitable to the latitude of a great empire. It is only in the term of preſcription that the diſtinction of real and perſonal fortune has been remarked by the civilians, and their general idea of property is that of ſimple, uniform, and abſolute dominion. The ſubordinate exceptions of *uſe*, of *uſufruct* [141], of *ſervitudes* [142], impoſed for the benefit of a neighbour on lands

tom. i. p. 306—315.). The definition is ſomewhat arbitrary; and as none except myſelf have aſſigned a reaſon, I am diffident of my own.

[140] From this ſhort preſcription, Hume (Eſſays, vol. i. p. 423.) infers that there could not *then* be more order and ſettlement in Italy than *now* amongſt the Tartars. By the civilian of his adverſary Wallace, he is reproached, and not without reaſon, for overlooking the conditions (Inſtitut. l. ii. tit. vi.).

[141] See the Inſtitutes (l. i. tit. iv, v.) and the Pandects (l. vii.). Noodt has compoſed a learned and diſtinct treatiſe de *Uſufructu* (Opp. tom. i. p. 387—478.).

[142] The queſtions *de Servitutibus* are diſcuſſed in the Inſtitutes (l. ii. tit. iii.) and Pandects (l. viii.). Cicero (pro Murenâ, c. 9.) and Lactantius (Inſtitut. Divin. l. i. c. 1.) affect to laugh at the inſignificant doctrine, de aquâ pluviâ arcendâ, &c. Yet it might be of frequent uſe among litigious neighbours, both in town and country.

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and houſes, are abundantly explained by the profeſſors of juriſprudence. The claims of property, as far as they are altered by the mixture, the diviſion, or the transformation of ſubſtances, are inveſtigated with metaphyſical ſubtlety by the ſame civilians.

Of inheritance and ſucceſſion.

The perſonal title of the firſt proprietor muſt be determined by his death: but the poſſeſſion, without any appearance of change, is peaceably continued in his children, the aſſociates of his toil and the partners of his wealth. This natural inheritance has been protected by the legiſlators of every climate and age, and the father is encouraged to perſevere in ſlow and diſtant improvements, by the tender hope, that a long poſterity will enjoy the fruits of his labour. The *principle* of hereditary ſucceſſion is univerſal, but the *order* has been variouſly eſtabliſhed by convenience or caprice, by the ſpirit of national inſtitutions, or by ſome partial example, which was originally decided by fraud or violence. The juriſprudence of the Romans appears to have deviated from the equality of nature, much leſs than the Jewiſh [143], the Athenian [144], or the Engliſh inſtitutions [145]. On the death

[143] Among the patriarchs, the firſt born enjoyed a myſtic and ſpiritual primogeniture (Geneſis, xxv. 31.). In the land of Canaan he was entitled to a double portion of inheritance (Deuteronomy, xxi. 17. with Le Clerc's judicious Commentary).

[144] At Athens the ſons were equal, but the poor daughters were endowed at the diſcretion of their bothers. See the κλητικοι pleadings of Iſæus (in the viith volume of the Greek Orators), illuſtrated by the verſion and comment of Sir William Jones, a ſcholar, a lawyer, and a man of genius.

[145] In England, the eldeſt ſon alone inherits *all* the land, a law, ſays the orthodox judge Blackſtone (Commentaries on the Laws of England,

death of a citizen, all his deſcendants, unleſs they were already freed from his paternal power, were called to the inheritance of his poſſeſſions. The inſolent prerogative of primogeniture was unknown: the two ſexes were placed on a juſt level; all the ſons and daughters were entitled to an equal portion of the patrimonial eſtate; and if any of the ſons had been intercepted by a premature death, his perſon was repreſented, and his ſhare was divided, by his ſurviving children. On the failure of the direct line, the right of ſucceſſion muſt diverge to the collateral branches. The degrees of kindred [146] are numbered by the civilians, aſcending from the laſt poſſeſſor to a common parent, and deſcending from the common parent to the next heir: my father ſtands in the firſt degree, my brother in the ſecond, his children in the third, and the remainder of the ſeries may be conceived by fancy, or pictured in a genealogical table. In this computation, a diſtinction was made, eſſential to the laws and even the conſtitution of Rome; the *agnats*, or perſons connected by a line of males, were called, as they ſtood in the neareſt degree, to an equal partition; but a female was incapable of tranſmitting any legal claims; and the *cognats* of every rank, without excepting the dear relation of

Civil degrees of kindred.

England, vol. ii. p. 215.) unjuſt only in the opinion of younger brothers. It may be of ſome political uſe in ſharpeniug their induſtry.

[146] Blackſtone's Tables (vol. ii. p. 202.) repreſent and compare the degrees of the civil with thoſe of the canon and common law. A ſeparate tract of Julius Paulus, de gradibus et affinibus, is inſerted or abridged in the Pandects (l. xxxviii. tit. x.). In the viiith degrees he computes (N° 18.) 1024 perſons.

a mother

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a mother and a ſon, were diſinherited by the twelve tables, as ſtrangers and aliens. Among the Romans, a *gens* or lineage was united by a common *name* and domeſtic rites; the various *cognomens* or *ſurnames* of Scipio, or Marcellus, diſtinguiſhed from each other the ſubordinate branches or families of the Cornelian or Claudian race: the default of the *agnats*, of the ſame ſurname, was ſupplied by the larger denomination of *gentiles*; and the vigilance of the laws maintained, in the ſame name, the perpetual deſcent of religion and property. A ſimilar principle dictated the Voconian law [147], which aboliſhed the right of female inheritance. As long as virgins were given or ſold in marriage, the adoption of the wife extinguiſhed the hopes of the daughter. But the equal ſucceſſion of independent matrons, ſupported their pride and luxury, and might tranſport into a foreign houſe the riches of their fathers. While the maxims of Cato [148] were revered, they tended to perpetuate in each family a juſt and virtuous mediocrity: till female blandiſhments inſenſibly triumphed; and every ſalutary reſtraint was loſt in the diſſolute greatneſs of the republic. The rigour of the decemvirs was tempered by the equity of the prætors. Their edicts reſtored emancipated and

147 The Voconian law was enacted in the year of Rome 584. The younger Scipio, who was then xvii years of age (Frenſhemius, Supplement. Livian. xlvi. 40.), found an occaſion of exerciſing his generoſity to his mother, ſiſters, &c. (Polybius, tom. ii. l. xxxi. p. 1453—1464. edit. Gronov. a domeſtic witneſs).

148 Legem Voconiam (Erneſti, Clavis Ciceroniana) magnâ voce bonis lateribus (at lxv years of age) ſuaſiſſem, ſays old Cato (de Senectute, c. 5.). Aulus Gellius (vii. 13. xvii. 6.) has ſaved ſome paſſages.

poſt-

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posthumous children to the rights of nature; and upon the failure of the *agnats*, they preferred the blood of the *cognats* to the name of the gentiles, whose title and character were insensibly covered with oblivion. The reciprocal inheritance of mothers and sons was established in the Tertullian and Orphitian decrees by the humanity of the senate. A new and more impartial order was introduced by the novels of Justinian, who affected to revive the jurisprudence of the twelve tables. The lines of masculine and female kindred were confounded: the descending, ascending, and collateral series, was accurately defined; and each degree, according to the proximity of blood and affection, succeeded to the vacant possessions of a Roman citizen [149].

Introduction and liberty of testaments.

The order of succession is regulated by nature, or at least by the general and permanent reason of the lawgiver: but this order is frequently violated by the arbitrary and partial *wills* which prolong the dominion of the testator beyond the grave [150]. In the simple state of society, this last use or abuse of the right of property is seldom indulged: it was introduced at Athens by the laws of Solon; and

149 See the law of succession in the Institutes of Caius (l. ii. tit. viii. p. 130—144.) and Justinian (l. iii. tit. i—vi. with the Greek version of Theophilus, p. 515—575. 588—600.), the Pandects (l. xxxviii. tit. vi—xvii.), the Code (l. vi. tit. lv—lx.), and the Novels (cxviii.).

150 That succession was the *rule*, testament the *exception*, is proved by Taylor (Elements of Civil Law, p. 519—527.), a learned, rambling, spirited, writer. In the ii^d and iii^d books the method of the Institutes is doubtless preposterous; and the Chancellor Duquesseau (Oeuvres, tom. i. p. 275.) wishes his countryman Domat in the place of Tribonian. Yet *covenants* before *successions* is not surely *the natural order of the civil laws*.

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the private teſtaments of the father of a family are authoriſed by the twelve tables. Before the time of the decemvirs[151], a Roman citizen expoſed his wiſhes and motives to the aſſembly of the thirty curiæ or pariſhes, and the general law of inheritance was ſuſpended by an occaſional act of the legiſlature. After the permiſſion of the decemvirs, each private lawgiver promulgated his verbal or written teſtament in the preſence of five citizens, who repreſented the five claſſes of the Roman people; a ſixth witneſs atteſted their concurrence; a ſeventh weighed the copper money, which was paid by an imaginary purchaſer; and the eſtate was emancipated by a fictitious ſale and immediate releaſe. This ſingular ceremony[152], which excited the wonder of the Greeks, was ſtill practiſed in the age of Severus; but the prætors had already approved a more ſimple teſtament, for which they required the ſeals and ſignatures of ſeven witneſſes, free from all legal exception, and purpoſely ſummoned for the execution of that important act. A domeſtic monarch, who reigned over the lives and fortunes of his children, might diſtribute their reſpective ſhares according to the degrees of their merit or his affection: his arbitrary

[151] Prior examples of teſtaments are perhaps fabulous. At Athens a *childleſs* father only could make a will (Plutarch, in Solone, tom. i. p. 164. See Iſæus and Jones).

[152] The teſtament of Auguſtus is ſpecified by Suetonius (in Auguſt. c. 101. in Neron. c. 4.), who may be ſtudied as a code of Roman antiquities. Plutarch (Opuſcul. tom. ii. p. 976.) is ſurpriſed ὁταν δὲ διαθηκας γραφωσιν ἑτερους μεν ἀπολειπουσι κληρονομους, ἑτερους δε πωλουσι τας ουσιας. The language of Ulpian (Fragment. tit. xx. p. 627. edit. Schulting) is almoſt too excluſive—ſolum in uſû eſt.

diſ-

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diſpleaſure chaſtiſed an unworthy ſon by the loſs of his inheritance and the mortifying preference of a ſtranger. But the experience of unnatural parents recommended ſome limitations of their teſtamentary powers. A ſon, or, by the laws of Juſtinian, even a daughter, could no longer be diſinherited by their ſilence: they were compelled to name the criminal, and to ſpecify the offence; and the juſtice of the emperor enumerated the ſole cauſes that could juſtify ſuch a violation of the firſt principles of nature and ſociety [153]. Unleſs a legitimate portion, a fourth part, had been reſerved for the children, they were entitled to inſtitute an action or complaint of *inofficious* teſtament; to ſuppoſe that their father's underſtanding was impaired by ſickneſs or age; and reſpectfully to appeal from his rigorous ſentence to the deliberate wiſdom of the magiſtrate. In the Roman juriſprudence, an eſſential diſtinction was admitted between the inheritance and the legacies. The heirs who ſucceeded to the entire unity, or to any of the twelve fractions of the ſubſtance of the teſtator, repreſented his civil and religious character, aſſerted his rights, fulfilled his obligations, and diſcharged the gifts of friendſhip or liberality which his laſt will had bequeathed under the name of legacies. But as the imprudence or prodigality of a dying man might exhauſt the inheritance, and leave only riſk and labour to his ſucceſſor, he was empowered to retain the *Falcidian* portion; to deduct, before

Legacies.

[153] Juſtinian (Novell. cxv. N° 3, 4.) enumerates only the public and private crimes, for which a ſon might likewiſe diſinherit his father.

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mentary heir; who fulfilled with honour, or neglected with impunity, this laſt requeſt, which the judges before the age of Auguſtus were not authoriſed to enforce. A codicil might be expreſſed in any mode, or in any language; but the ſubſcription of five witneſſes muſt declare that it was the genuine compoſition of the author. His intention, however laudable, was ſometimes illegal; and the invention of *fidei-commiſſa*, or truſts, aroſe from the ſtruggle between natural juſtice and poſitive juriſprudence. A ſtranger of Greece or Africa might be the friend or benefactor of a childleſs Roman, but none, except a fellow-citizen, could act as his heir. The Voconian law, which aboliſhed female ſucceſſion, reſtrained the legacy or inheritance of a woman to the ſum of one hundred thouſand ſeſterces [155]; and an only daughter was condemned almoſt as an alien in her father's houſe. The zeal of friendſhip, and parental affection, ſuggeſted a liberal artifice: a qualified citizen was named in the teſtament, with a prayer or injunction that he would reſtore the inheritance to the perſon for whom it was truly intended. Various was the conduct of the truſtees in this painful ſituation: they had ſworn to obſerve the laws of their country, but honour prompted them to violate their oath: and if they preferred their intereſt under the maſk of patriotiſm, they forfeited the eſteem of every virtuous mind. The declaration of Auguſtus relieved their doubts, gave a legal

[155] Dion Caſſius (tom. ii. l. lvi. p. 814. with Reimar's Notes) ſpecifies in Greek money the ſum of 25,000 drachms.

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ſanction to confidential teſtaments and codicils, and gently unravelled the forms and reſtraints of the republican juriſprudence [156]. But as the new practice of truſts degenerated into ſome abuſe, the truſtee was enabled, by the Trebellian and Pegaſian decrees, to reſerve one fourth of the eſtate, or to transfer on the head of the real heir all the debts and actions of the ſucceſſion. The interpretation of teſtaments was ſtrict and literal; but the language of *truſts* and codicils was delivered from the minute and technical accuracy of the civilians [157].

III. Of Actions.

III. The general duties of mankind are impoſed by their public and private relations: but their ſpecific *obligations* to each other can only be the effect of, 1. a promiſe, 2. a benefit, or 3. an injury: and when theſe obligations are ratified by law, the intereſted party may compel the performance by a judicial *action*. On this principle, the civilians of every country have erected a ſimilar juriſprudence, the fair concluſion of univerſal reaſon and juſtice [158].

156 The revolutions of the Roman laws of inheritance are finely, though ſometimes fancifully, deduced by Monteſquieu (Eſprit des Loix, l. xxvii.).

157 Of the civil juriſprudence of ſucceſſions, teſtaments, codicils, legacies, and truſts, the principles are aſcertained in the Inſtitutes of Caius (l. ii. tit. ii—ix. p. 91—144.), Juſtinian (l. ii. tit. x—xxv.), and Theophilus (p. 328—514.); and the immenſe detail occupies twelve books (xxviii—xxxix.) of the Pandects.

158 The Inſtitutes of Caius (l. ii. tit. ix, x. p. 144—214.), of Juſtinian (l. iii. tit. xiv—xxx. l. iv. tit. i—vi.), and of Theophilus (p. 616—837.), diſtinguiſh four ſorts of obligations—aut *re*, aut *verbis*, aut *literis*, aut *conſenſu*: but I confeſs myſelf partial to my own diviſion.

1. The

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Promiſes.

1. The goddeſs of *faith* (of human and ſocial faith) was worſhipped, not only in her temples, but in the lives of the Romans; and if that nation was deficient in the more amiable qualities of benevolence and generoſity, they aſtoniſhed the Greeks by their ſincere and ſimple performance of the moſt burthenſome engagements [159]. Yet among the ſame people, according to the rigid maxims of the patricians and decemvirs, a *naked pact*, a promiſe, or even an oath, did not create any civil obligation, unleſs it was confirmed by the legal form of *ſtipulation*. Whatever might be the etymology of the Latin word, it conveyed the idea of a firm and irrevocable contract, which was always expreſſed in the mode of a queſtion and anſwer. Do you promiſe to pay me one hundred pieces of gold? was the ſolemn interrogation of Seius. I do promiſe —was the reply of Sempronius. The friends of Sempronius, who anſwered for his ability and inclination, might be ſeparately ſued at the option of Seius; and the benefit of partition, or order of reciprocal actions, inſenſibly deviated from the ſtrict theory of ſtipulation. The moſt cautious and deliberate conſent was juſtly required to ſuſtain the validity of a gratuitous promiſe; and the citizen who might have obtained a legal ſecurity, incurred the ſuſpicion of fraud, and paid the forfeit of his neglect. But the ingenuity of the civilians

[159] How much is the cool, rational evidence of Polybius (l. vi. p. 693. l. xxxi. p. 1459, 1460.) ſuperior to vague, indiſcriminate applauſe—omnium maxime et præcipue fidem coluit (A. Gellius, xx. 1.).

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ſucceſsfully laboured to convert ſimple engagements into the form of ſolemn ſtipulations. The prætors, as the guardians of ſocial faith, admitted every rational evidence of a voluntary and deliberate act, which in their tribunal produced an equitable obligation, and for which they gave an action and a remedy [160].

Benefits.

2. The obligations of the ſecond claſs, as they were contracted by the delivery of a thing, are marked by the civilians with the epithet of real [161]. A grateful return is due to the author of a benefit; and whoever is entruſted with the property of another, has bound himſelf to the ſacred duty of reſtitution. In the caſe of a friendly loan, the merit of generoſity is on the ſide of the lender only, in a depoſit on the ſide of the receiver; but in a *pledge*, and the reſt of the ſelfiſh commerce of ordinary life, the benefit is compenſated by an equivalent, and the obligation to reſtore is variouſly modified by the nature of the tranſaction. The Latin language very happily expreſſes the fundamental difference between the *commodatum* and the *mutuum*, which our poverty is reduced to confound under the vague and common appellation of a loan. In the former, the borrower was obliged to reſtore the ſame individual thing with

160 The Jus Prætorium de Pactis et Tranſactionibus is a ſeparate and ſatisfactory treatiſe of Gerard Noodt (Opp. tom. i. p. 483—564.). And I will here obſerve that the univerſities of Holland and Brandenburgh, in the beginning of the preſent century, appear to have ſtudied the civil law on the moſt juſt and liberal principles.

161 The nice and various ſubject of contracts by conſent, is ſpread over four books (xvii—xx.) of the Pandects, and is one of the parts beſt deſerving of the attention of an Engliſh ſtudent.

which

which he had been *accommodated* for the temporary ſupply of his wants; in the latter, it was deſtined for his uſe and conſumption, and he diſcharged this *mutual* engagement, by ſubſtituting the ſame ſpecific value, according to a juſt eſtimation of number, of weight, and of meaſure. In the contract of *ſale*, the abſolute dominion is transferred to the purchaſer, and he repays the benefit with an adequate ſum of gold or ſilver, the price and univerſal ſtandard of all earthly poſſeſſions. The obligation of another contract, that of *location*, is of a more complicated kind. Lands or houſes, labour or talents, may be hired for a definite term; at the expiration of the time, the thing itſelf muſt be reſtored to the owner with an additional reward for the beneficial occupation and employment. In theſe lucrative contracts, to which may be added thoſe of partnerſhip and commiſſions, the civilians ſometimes imagine the delivery of the object, and ſometimes preſume the conſent of the parties. The ſubſtantial pledge has been refined into the inviſible rights of a mortgage or *hypotheca*; and the agreement of ſale, for a certain price, imputes, from that moment, the chances of gain or loſs to the account of the purchaſer. It may be fairly ſuppoſed, that every man will obey the dictates of his intereſt; and if he accepts the benefit, he is obliged to ſuſtain the expence, of the tranſaction. In this boundleſs ſubject, the hiſtorian will obſerve the *location* of land and money, the rent of the one and the intereſt of the other, as they materially affect the proſperity of agriculture and commerce. The

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landlord was often obliged to advance the ſtock and inſtruments of huſbandry, and to content himſelf with a partition of the fruits. If the feeble tenant was oppreſſed by accident, contagion, or hoſtile violence, he claimed a proportionable relief from the equity of the laws: five years were the cuſtomary term, and no ſolid or coſtly improvements could be expected from a farmer, who, at each moment, might be ejected by the ſale of the eſtate [162]. Uſury [163], the inveterate grievance of the city, had been diſcouraged by the twelve tables [164], and aboliſhed by the clamours of the

Intereſt of money.

[162] The covenants of rent are defined in the Pandects (l. xix.) and the Code (l. iv. tit. lxv.). The quinquennium, or term of five years, appears to have been a cuſtom rather than a law; but in France all leaſes of land were determined in nine years. This limitation was removed only in the year 1775 (Encyclopédie Methodique, tom. i. de la Juriſprudence, p. 668, 669.); and I am ſorry to obſerve that it yet prevails in the beauteous and happy country where I am permitted to reſide.

[163] I might implicitly acquieſce in the ſenſe and learning of the three books of G. Noodt, de fœnore et uſuris (Opp. tom. i. p. 175—268.). The interpretation of the *aſſes* or *centeſimæ uſuræ* at twelve, the *unciariæ* at one, per cent. is maintained by the beſt critics and civilians: Noodt (l. ii. c. 2. p. 207.), Gravina (Opp. p. 205, &c. 210.), Heineccius (Antiquitat. ad Inſtitut. l. iii. tit. xv.), Monteſquieu (Eſprit des Loix, l. xxii. c. 22. tom. ii. p. 36. Defenſe de l'Eſprit des Loix, tom. iii. p. 478, &c.), and above all John Frederic Gronovius (de Pecunia Veteri, l. iii. c. 13. p. 213—227. and his three Antexegeſes, p. 455—655.), the founder, or at leaſt the champion, of this probable opinion; which is, however, perplexed with ſome difficulties.

[164] Primo xii tabulis ſancitum eſt ne quis unciario fœnore amplius exerceret (Tacit. Annal. vi. 16.). Pour peu (ſays Monteſquieu, Eſprit des Loix, l. xxii. c. 22.) qu'on ſoit verſé dans l'hiſtoire de Rome, on verra qu'une pareille loi ne devoit pas etre l'ouvrage des decemvirs. Was Tacitus ignorant—or ſtupid? But the wiſer and more virtuous patricians might ſacrifice their avarice to their ambition, and might attempt to check the odious practice by ſuch intereſt as no lender would accept, and ſuch penalties as no debtor would incur.

people.

people. It was revived by their wants and idleneſs, tolerated by the diſcretion of the prætors, and finally determined by the Code of Juſtinian. Perſons of illuſtrious rank were confined to the moderate profit of four *per cent.*; ſix was pronounced to be the ordinary and legal ſtandard of intereſt; eight was allowed for the convenience of manufacturers and merchants; twelve was granted to nautical inſurance, which the wiſer ancients had not attempted to define; but except in this perilous adventure, the practice of exorbitant uſury was ſeverely reſtrained [165]. The moſt ſimple intereſt was condemned by the clergy of the Eaſt and Weſt [166]: but the ſenſe of mutual benefit, which had triumphed over the laws of the republic, have reſiſted with equal firmneſs the decrees of the church, and even the prejudices of mankind [167].

3. Nature and ſociety impoſe the ſtrict obligation of repairing an injury; and the ſufferer by private injuſtice, acquires a perſonal right and a legitimate action. If the property of another be entruſted to our care, the requiſite degree of care may riſe and fall according to the benefit which we derive from ſuch temporary poſſeſſion; we are

Injuries.

165 Juſtinian has not condeſcended to give uſury a place in his Inſtitutes; but the neceſſary rules and reſtrictions are inſerted in the Pandects (l. xxii. tit. i, ii.) and the Code (l. iv. tit. xxxii, xxxiii.).

166 The fathers are unanimous (Barbeyrac, Morale des Peres, p. 144, &c.): Cyprian, Lactantius, Baſil, Chryſoſtom (ſee his frivolous arguments in Noodt, l. i. c. 7. p. 188.), Gregory of Nyſſa, Ambroſe, Jerom, Auguſtin, and a hoſt of councils and caſuiſts.

167 Cato, Seneca, Plutarch, have loudly condemned the practice or abuſe of uſury. According to the etymology of *fœnus* and τοκος, the principal is ſuppoſed to *generate* the intereſt: a breed of barren metal, exclaims Shakſpeare—and the ſtage is the echo of the public voice.

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ſeldom made reſponſible for inevitable accident, but the conſequences of a voluntary fault muſt always be imputed to the author[168]. A Roman purſued and recovered his ſtolen goods by a civil action of theft; they might paſs through a ſucceſſion of pure and innocent hands, but nothing leſs than a preſcription of thirty years could extinguiſh his original claim. They were reſtored by the ſentence of the prætor, and the injury was compenſated by double or threefold, or even quadruple damages, as the deed had been perpetrated by ſacred fraud or open rapine, as the robber had been ſurpriſed in the fact or detected by a ſubſequent reſearch. The Aquilian law[169] defended the living property of a citizen, his ſlaves and cattle, from the ſtroke of malice or negligence: the higheſt price was allowed that could be aſcribed to the domeſtic animal at any moment of the year preceding his death; a ſimilar latitude of thirty days was granted on the deſtruction of any other valuable effects. A perſonal injury is blunted or ſharpened by the manners of the times and the ſenſibility of the individual: the pain or the diſgrace of a word or blow cannot eaſily be appreciated by a pecuniary equivalent. The rude juriſprudence of the decemvirs had confounded all haſty inſults, which did not amount to the frac-

168 Sir William Jones has given an ingenious and rational Eſſay on the Law of Bailment (London, 1781, p. 127. in 8°). He is perhaps the only lawyer equally converſant with the year-books of Weſtminſter, the Commentaries of Ulpian, the Attic pleadings of Iſæus, and the ſentences of Arabian and Perſian cadhis.

169 Noodt (Opp. tom. i. p. 137—172.) has compoſed a ſeparate treatiſe, ad Legem Aquiliam (Pandect. l. ix. tit. ii.).

ture

ture of a limb, by condemning the aggreſſor to the common penalty of twenty-five *aſſes*. But the ſame denomination of money was reduced, in three centuries, from a pound to the weight of half an ounce; and the inſolence of a wealthy Roman indulged himſelf in the cheap amuſement of breaking and ſatisfying the law of the twelve tables. Veratius ran through the ſtreets ſtriking on the face the inoffenſive paſſengers, and his attendant purſe-bearer immediately ſilenced their clamours by the legal tender of twenty-five pieces of copper, about the value of one ſhilling [170]. The equity of the prætors examined and eſtimated the diſtinct merits of each particular complaint. In the adjudication of civil damages, the magiſtrate aſſumed a right to conſider the various circumſtances of time and place, of age and dignity, which may aggravate the ſhame and ſufferings of the injured perſon; but if he admitted the idea of a fine, a puniſhment, an example, he invaded the province, though, perhaps, he ſupplied the defects, of the criminal law.

Puniſhments.

The execution of the Alban dictator, who was diſmembered by eight horſes, is repreſented by Livy as the firſt and the laſt inſtance of Roman cruelty in the puniſhment of the moſt atrocious crimes [171]. But this act of juſtice, or revenge,

[170] Aulus Gellius (Noct. Attic. xx. 1.) borrowed this ſtory from the Commentaries of Q. Labeo on the xii tables.

[171] The narrative of Livy (i. 28.) is weighty and ſolemn. At tu dictis Albane maneres is an harſh reflection, unworthy of Virgil's humanity (Æneid, viii. 643.). Heyne, with his uſual good taſte, obſerves that the ſubject was too horrid for the ſhield of Æneas (tom. iii. p. 229.).

was

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Severity of the twelve tables.

was inflicted on a foreign enemy in the heat of victory, and at the command of a ſingle man. The twelve tables afford a more deciſive proof of the national ſpirit, ſince they were framed by the wiſeſt of the ſenate, and accepted by the free voices of the people; yet theſe laws, like the ſtatutes of Draco [172], are written in characters of blood [173]. They approve the inhuman and unequal principle of retaliation; and the forfeit of an eye for an eye, a tooth for a tooth, a limb for a limb, is rigorouſly exacted, unleſs the offender can redeem his pardon by a fine of three hundred pounds of copper. The decemvirs diſtributed with much liberality the ſlighter chaſtiſements of flagellation and ſervitude; and nine crimes of a very different complexion are adjudged worthy of death. 1. Any act of *treaſon* againſt the ſtate, or of correſpondence with the public enemy. The mode of execution was painful and ignominious: the head of the degenerate Roman was ſhrouded in a veil, his hands were tied behind his back, and, after he had been ſcourged by the lictor, he was ſuſpended in the midſt of the forum on a croſs, or inauſpicious tree. 2. Nocturnal meetings in the city; whatever might be the pretence, of pleaſure, or religion, or the public good. 3. The murder

172 The age of Draco (Olympiad xxxix. 1.) is fixed by Sir John Marſham (Canon Chronicus, p. 593—596.) and Corſini (Faſti Attici, tom. iii. p. 62.). For his laws, ſee the writers on the government of Athens, Sigonius, Meurſius, Potter, &c.

173 The viiith, de delictis, of the xii tables is delineated by Gravina (Opp. p. 292, 293. with a Commentary, p. 214—230.). Aulus Gellius (xx. 1.) and the Collatio Legum Moſaicarum et Romanarum afford much original information.

of

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of a citizen; for which the common feelings of mankind demand the blood of the murderer. Poiſon is ſtill more odious than the ſword or dagger; and we are ſurpriſed to diſcover, in two flagitious events, how early ſuch ſubtle wickedneſs had infected the ſimplicity of the republic, and the chaſte virtues of the Roman matrons [174]. The parricide who violated the duties of nature and gratitude, was caſt into the river or the ſea, incloſed in a ſack; and a cock, a viper, a dog, and a monkey, were ſucceſſively added as the moſt ſuitable companions [175]. Italy produces no monkies; but the want could never be felt, till the middle of the ſixth century firſt revealed the guilt of a parricide [176]. 4. The malice of an *incendiary*. After the previous ceremony of whipping, he him-

174 Livy mentions two remarkable and flagitious æras, of 3000 perſons accuſed, and of 190 noble matrons convicted, of the crime of poiſoning (xl. 43. viii. 18.). Mr. Hume diſcriminates the ages of private and public virtue (Eſſays, vol. i. p. 22, 23.). I would rather ſay that ſuch ebullitions of miſchief (as in France in the year 1680) are accidents and prodigies which leave no marks on the manners of a nation.

175 The xii Tables and Cicero (pro Roſcio Amerino, c. 25, 26.) are content with the ſack; Seneca (Excerpt. Controverſ. v. 4.) adorns it with ſerpents; Juvenal pities the guiltleſs monkey (innoxia ſimia—Satir. xiii. 156.). Hadrian (apud Doſitheum Magiſtrum, l. iii. c. 16. p. 874—876. with Schulting's Note), Modeſtinus (Pandect. xlviii. tit. ix. leg. 9.), Conſtantine (Cod. l. ix. tit. xvii.), and Juſtinian (Inſtitut. l. iv. tit. xviii.), enumerate all the companions of the parricide. But this fanciful execution was ſimplified in practice. Hodie tamen vivi exuruntur vel ad beſtias dantur (Paul. Sentent. Recept. l. v. tit. xxiv. p. 512. edit. Schulting).

176 The firſt parricide at Rome was L. Oſtius, after the ſecond Punic war (Plutarch in Romulo, tom. i. p. 57.). During the Cimbric, P. Malleolus was guilty of the firſt matricide (Liv. Epitom. l. lxviii.).

ſelf

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ſelf was delivered to the flames; and in this example alone our reaſon is tempted to applaud the juſtice of retaliation. 5. *Judicial perjury.* The corrupt or malicious witneſs was thrown headlong from the Tarpeian rock to expiate his falſehood, which was rendered ſtill more fatal by the ſeverity of the penal laws, and the deficiency of written evidence. 6. The corruption of a judge, who accepted bribes to pronounce an iniquitous ſentence. 7. Libels and ſatires, whoſe rude ſtrains ſometimes diſturbed the peace of an illiterate city. The author was beaten with clubs, a worthy chaſtiſement, but it is not certain that he was left to expire under the blows of the executioner[177]. 8. The nocturnal miſchief of damaging or deſtroying a neighbour's corn. The criminal was ſuſpended as a grateful victim to Ceres. But the ſylvan deities were leſs implacable, and the extirpation of a more valuable tree was compenſated by the moderate fine of twenty-five pounds of copper. 9. Magical incantations; which had power, in the opinion of the Latian ſhepherds, to exhauſt the ſtrength of an enemy, to extinguiſh his life, and remove from their ſeats his deep-rooted plantations. The cruelty of the twelve tables againſt inſolvent debtors ſtill remains to be told; and I ſhall dare to prefer the literal ſenſe of antiquity, to the ſpecious refinements of modern

[177] Horace talks of the formidine fuſtîs (l. ii. epiſt. ii. 154); but Cicero (de Republicâ, l. iv. apud Auguſtin. de Civitat. Dei, ix. 6. in Fragment. Philoſoph. tom. iii. p. 393. edit. Olivet) affirms that the decemvirs made libels a capital offence: cum perpaucas res capite ſanxiſſent—*perpaucas!*

criticiſm[178]. After the judicial proof or confeſſion of the debt, thirty days of grace were allowed before a Roman was delivered into the power of his fellow-citizen. In this private priſon, twelve ounces of rice were his daily food; he might be bound with a chain of fifteen pounds weight; and his miſery was thrice expoſed in the market-place, to ſolicit the compaſſion of his friends and countrymen. At the expiration of ſixty days, the debt was diſcharged by the loſs of liberty or life; the inſolvent debtor was either put to death, or ſold in foreign ſlavery beyond the Tyber: but if ſeveral creditors were alike obſtinate and unrelenting, they might legally diſmember his body, and ſatiate their revenge by this horrid partition. The advocates for this ſavage law have inſiſted, that it muſt ſtrongly operate in deterring idleneſs and fraud from contracting debts which they were unable to diſcharge; but experience would diſſipate this ſalutary terror, by proving, that no creditor could be found to exact this unprofitable penalty of life or limb. As the manners of Rome were inſenſibly poliſhed, the criminal code of the decemvirs was aboliſhed by the humanity of accuſers, witneſſes, and judges; and impunity became the conſequence of immoderate rigour. The Porcian and Valerian laws prohibited the magiſtrates from

[178] Bynkerſhoek (Obſervat. Juris Rom. l. i. c. 1. in Opp. tom. i. p. 9, 10, 11.) labours to prove that the creditors divided not the *body*, but the *price*, of the inſolvent debtor. Yet his interpretation is one perpetual harſh metaphor; nor can he ſurmount the Roman authorities of Quintilian, Cæcilius, Favonius, and Tertullian. See Aulus Gellius, Noct. Attic. xxi.

inflicting

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inflicting on a free citizen any capital, or even corporal puniſhment; and the obſolete ſtatutes of blood were artfully, and perhaps truly, aſcribed to the ſpirit, not of patrician, but of regal, tyranny.

Abolition or oblivion of penal laws.

In the abſence of penal laws and the inſufficiency of civil actions, the peace and juſtice of the city were imperfectly maintained by the private juriſdiction of the citizens. The malefactors who repleniſh our gaols, are the outcaſts of ſociety, and the crimes for which they ſuffer may be commonly aſcribed to ignorance, poverty, and brutal appetite. For the perpetration of ſimilar enormities, a vile plebeian might claim and abuſe the ſacred character of a member of the republic: but, on the proof or ſuſpicion of guilt, the ſlave, or the ſtranger, was nailed to a croſs, and this ſtrict and ſummary juſtice might be exerciſed without reſtraint over the greateſt part of the populace of Rome. Each family contained a domeſtic tribunal, which was not confined, like that of the prætor, to the cognizance of external actions: virtuous principles and habits were inculcated by the diſcipline of education; and the Roman father was accountable to the ſtate for the manners of his children, ſince he diſpoſed, without appeal, of their life, their liberty, and their inheritance. In ſome preſſing emergencies, the citizen was authoriſed to avenge his private or public wrongs. The conſent of the Jewiſh, the Athenian, and the Roman laws, approved the ſlaughter of the nocturnal thief; though in open day-light, a robber could not be ſlain

without ſome previous evidence of danger and complaint. Whoever ſurpriſed an adulterer in his nuptial bed might freely exerciſe his revenge [179]; the moſt bloody or wanton outrage was excuſed by the provocation [180]; nor was it before the reign of Auguſtus that the huſband was reduced to weigh the rank of the offender, or that the parent was condemned to ſacrifice his daughter with her guilty ſeducer. After the expulſion of the kings, the ambitious Roman who ſhould dare to aſſume their title or imitate their tyranny, was devoted to the infernal gods: each of his fellow-citizens was armed with the ſword of juſtice; and the act of Brutus, however repugnant to gratitude or prudence, had been already ſanctified by the judgment of his country [181]. The barbarous practice of wearing arms in the midſt of peace [182], and the bloody maxims of honour, were unknown to the

179 The firſt ſpeech of Lyſias (Reiſke, Orator. Græc. tom. v. p. 2—48.) is in defence of an huſband who had killed the adulterer. The right of huſbands and fathers at Rome and Athens is diſcuſſed with much learning by Dr. Taylor (Lectiones Lyſiacæ, c. xi. in Reiſke, tom. vi. p. 301—308.).

180 See Caſaubon ad Athenæum, l. i. c. 5. p. 19. Percurrent raphanique mugileſque (Catull. p. 41, 42. edit. Voſſian.). Hunc mugilis intrat (Juvenal, Satir. x. 317.). Hunc perminxere calones (Horat. l. i. Satir. ii. 44.) familiæ ſtuprandum dedit. . . fraudi non fuit (Val. Maxim. l. vi. c. 1. N° 13.).

181 This law is noticed by Livy (ii. 8.) and Plutarch (in Publicola, tom. i. p. 187.); and it fully juſtifies the public opinion on the death of Cæſar, which Suetonius could publiſh under the Imperial government. Jure cæſus exiſtimatur (in Julio, c. 76.). Read the letters that paſſed between Cicero and Matius a few months after the ides of March (ad Fam. xi. 27, 28.).

182 Πρωτοι δε Αθηναιοι τον τε σιδηρον κατεθεντο. Thucydid. l. i. c. 6. The hiſtorian who conſiders this circumſtance as the teſt of civilization, would diſdain the barbariſm of an European court.

Romans;

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Romans; and, during the two pureſt ages, from the eſtabliſhment of equal freedom to the end of the Punic wars, the city was never diſturbed by ſedition, and rarely polluted with atrocious crimes. The failure of penal laws was more ſenſibly felt when every vice was inflamed by faction at home and dominion abroad. In the time of Cicero, each private citizen enjoyed the privilege of anarchy: each miniſter of the republic was exalted to the temptations of regal power, and their virtues are entitled to the warmeſt praiſe as the ſpontaneous fruits of nature or philoſophy. After a triennial indulgence of luſt, rapine, and cruelty, Verres, the tyrant of Sicily, could only be ſued for the pecuniary reſtitution of three hundred thouſand pounds ſterling; and ſuch was the temper of the laws, the judges, and perhaps the accuſer himſelf[183], that on refunding a thirteenth part of his plunder, Verres could retire to an eaſy and luxurious exile[184].

Revival of capital punishments.

The firſt imperfect attempt to reſtore the proportion of crimes and puniſhments, was made by the dictator Sylla, who in the midſt of his ſanguinary triumph, aſpired to reſtrain the licenſe, rather than to oppreſs the liberty, of the Romans. He gloried in the arbitrary proſcription of four

183 He firſt rated at *millies* (800,000*l.*) the damages of Sicily (Divinatio in Cæcilium, c. 5.), which he afterwards reduced to *quadringenties* (320,000*l.*—1 Actio in Verrem, c. 18.), and was finally content with *tricies* (24,000*l.*). Plutarch (in Ciceron. tom. iii. p. 1584.) has not diſſembled the popular ſuſpicion and report.

184 Verres lived near thirty years after his trial, till the ſecond triumvirate, when he was proſcribed by the taſte of Mark-Antony for the ſake of his Corinthian plate (Plin. Hiſt. Natur. xxxiv. 3.).

thouſand

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thouſand ſeven hundred citizens [185]. But in the character of a legiſlator, he reſpected the prejudices of the times; and inſtead of pronouncing a ſentence of death againſt the robber or aſſaſſin, the general who betrayed an army, or the magiſtrate who ruined a province, Sylla was content to aggravate the pecuniary damages by the penalty of exile, or, in more conſtitutional language, by the interdiction of fire and water. The Cornelian, and afterwards the Pompeian, and Julian, laws introduced a new ſyſtem of criminal juriſprudence [186]; and the emperors, from Auguſtus to Juſtinian, diſguiſed their increaſing rigour under the names of the original authors. But the invention and frequent uſe of *extraordinary pains*, proceeded from the deſire to extend and conceal the progreſs of deſpotiſm. In the condemnation of illuſtrious Romans, the ſenate was always prepared to confound, at the will of their maſters, the judicial and legiſlative powers. It was the duty of the governors to maintain the peace of their province, by the arbitrary and rigid adminiſtration of juſtice;

[185] Such is the number aſſigned by Valerius Maximus (l. ix. c. 2. N° 1.). Florus (iv. 21.) diſtinguiſhes 2000 ſenators and knights. Appian (de Bell. Civil. l. i. c. 95. tom. ii. p. 133. edit. Schweighæuſer) more accurately computes 40 victims of the ſenatorian rank, and 1600 of the equeſtrian cenſus or order.

[186] For the penal law (Leges Corneliæ, Pompeiæ, Juliæ, of Sylla, Pompey, and the Cæſars), ſee the ſentences of Paulus (l. iv. tit. xviii—xxx. p. 497—528. edit. Schulting), the Gregorian Code (Fragment. l. xix. p. 705, 706. in Schulting), the Collatio Legum Moſaicarum et Romanarum (tit. i—xv.), the Theodoſian Code (l. ix.), the Code of Juſtinian (l. ix.), the Pandects (xlviii.), the Inſtitutes (l. iv. tit. xviii.), and the Greek verſion of Theophilus (p. 917—926.).

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the freedom of the city evaporated in the extent of empire, and the Spaniſh malefactor, who claimed the privilege of a Roman, was elevated by the command of Galba on a fairer and more loſty croſs [187]. Occaſional reſcripts iſſued from the throne to decide the queſtions which, by their novelty or importance, appeared to ſurpaſs the authority and diſcernment of a proconſul. Tranſportation and beheading were reſerved for honourable perſons; meaner criminals were either hanged or burnt, or buried in the mines, or expoſed to the wild beaſts of the amphitheatre. Armed robbers were purſued and extirpated as the enemies of ſociety; the driving away horſes or cattle was made a capital offence [188]; but ſimple theft was uniformly conſidered as a mere civil and private injury. The degrees of guilt, and the modes of puniſhment, were too often determined by the diſcretion of the rulers, and the ſubject was left in ignorance of the legal danger which he might incur by every action of his life.

Meaſure of guilt.

A ſin, a vice, a crime, are the objects of theology, ethics, and juriſprudence. Whenever their judgments agree, they corroborate each other; but

187 It was a guardian who had poiſoned his ward. The crime was atrocious; yet the puniſhment is reckoned by Suetonius (c. 9.) among the acts in which Galba ſhewed himſelf acer vehemens, et in delictis coercendis immodicus.

188 The abactores or abigeatores, who drove one horſe, or two mares or oxen, or five hogs, or ten goats, were ſubject to capital puniſhment (Paul. Sentent. Recept. l. iv. tit. xviii. p. 497, 498.). Hadrian (ad Concil. Bæticæ), moſt ſevere where the offence was moſt frequent, condemns the criminals, ad gladium, ludi damnationem (Ulpian, de Officio Proconſulis, l. viii. in Collatione Legum Moſaic. et Rom. tit. xi. p. 235).

as

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as often as they differ, a prudent legiſlator appreciates the guilt and puniſhment according to the meaſure of ſocial injury. On this principle, the moſt daring attack on the life and property of a private citizen, is judged leſs atrocious than the crime of treaſon or rebellion, which invades the *majeſty* of the republic: the obſequious civilians unanimouſly pronounced, that the republic is contained in the perſon of its chief; and the edge of the Julian law was ſharpened by the inceſſant diligence of the emperors. The licentious commerce of the ſexes may be tolerated as an impulſe of nature, or forbidden as a ſource of diſorder and corruption: but the fame, the fortunes, the family of the huſband, are ſeriouſly injured by the adultery of the wife. The wiſdom of Auguſtus, after curbing the freedom of revenge, applied to this domeſtic offence the animadverſion of the laws: and the guilty parties, after the payment of heavy forfeitures and fines, were condemned to long or perpetual exile in two ſeparate iſlands [189]. Religion pronounces an equal cenſure againſt the infidelity of the huſband; but as it is not accompanied by the ſame civil effects, the wife was never permitted to vindicate her wrongs [190]; and the diſtinction

[189] Till the publication of the Julius Paulus of Schulting (l. ii. tit. xxvi. p. 317—323.), it was affirmed and believed, that the Julian laws puniſhed adultery with death; and the miſtake aroſe from the fraud or error of Tribonian. Yet Lipſius had ſuſpected the truth from the narratives of Tacitus (Annal. ii. 50. iii. 24. iv. 42.), and even from the practice of Auguſtus, who diſtinguiſhed the *treaſonable* frailties of his female kindred.

[190] In caſes of adultery, Severus confined to the huſband the right of public accuſation (Cod. Juſtinian. l. ix. tit. ix. leg. 1.). Nor is this

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Unnatural vice.

tion of ſimple or double adultery, ſo familiar and ſo important in the canon law, is unknown to the juriſprudence of the Code and Pandects. I touch with reluctance, and diſpatch with impatience, a more odious vice, of which modeſty rejects the name, and nature abominates the idea. The primitive Romans were infected by the example of the Etruſcans [191] and Greeks [192]: in the mad abuſe of proſperity and power, every pleaſure that is innocent was deemed inſipid; and the Scatinian law [193], which had been extorted by an act of violence, was inſenſibly aboliſhed by the lapſe of time and the multitude of criminals. By this law, the rape, perhaps the ſeduction, of an ingenuous youth, was compenſated, as a perſonal injury, by the poor damages of ten thouſand ſeſterces or fourſcore pounds; the raviſher might be ſlain by the reſiſtance or revenge of chaſtity; and I wiſh

this privilege unjuſt—ſo different are the effects of male or female infidelity.

[191] Timon (l. i.) and Theopompus (l. xliii. apud Athenæum, l. xii. p. 517.) deſcribe the luxury and luſt of the Etruſcans: πολυ μεν τοι γε χαιρουσι συνουσιες τοις παισι και τοις μειρακιοις. About the ſame period (A. U. C. 445) the Roman youth ſtudied in Etruria (Liv. ix. 36.).

[192] The Perſians had been corrupted in the ſame ſchool: απ' Ελληνων μαθοντες παισι μισγονται (Herodot. l. i. c. 135.). A curious diſſertation might be formed on the introduction of pæderaſty after the time of Homer, its progreſs among the Greeks of Aſia and Europe, the vehemence of their paſſions, and the thin device of virtue and friendſhip which amuſed the philoſophers of Athens. But, ſcelera oſtendi oportet dum puniuntur, abſcondi flagitia.

[193] The name, the date, and the proviſions, of this law, are equally doubtful (Gravina, Opp. p. 432, 433. Heineccius, Hiſt. Jur. Rom. N° 108. Erneſti, Clav. Ciceron. in Indice Legum). But I will obſerve that the *nefanda* Venus of the honeſt German is ſtyled *averſa* by the more polite Italian.

to

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to believe, that at Rome, as in Athens, the voluntary and effeminate deſerter of his ſex was degraded from the honours and the rights of a citizen [194]. But the practice of vice was not diſcouraged by the ſeverity of opinion: the indelible ſtain of manhood was confounded with the more venial tranſgreſſions of fornication and adultery, nor was the licentious lover expoſed to the ſame diſhonour which he impreſſed on the male or female partner of his guilt. From Catullus to Juvenal [195], the poets accuſe and celebrate the degeneracy of the times, and the reformation of manners was feebly attempted by the reaſon and authority of the civilians, till the moſt virtuous of the Cæſars proſcribed the ſin againſt nature as a crime againſt ſociety [196].

Rigour of the Chriſtian emperors.

A new ſpirit of legiſlation, reſpectable even in its error, aroſe in the empire with the religion of Conſtantine [197]. The laws of Moſes were received

194 See the oration of Æſchines againſt the catamite Timarchus (in Reiſke, Orator. Græc. tom. iii. p. 21—184.).

195 A crowd of diſgraceful paſſages will force themſelves on the memory of the claſſic reader: I will only remind him of the cool declaration of Ovid:

Odi concubitus qui non utrumque reſolvunt.
Hoc eſt quod puerûm tangar amore *minus*.

196 Ælius Lampridius, in Vit. Heliogabal. in Hiſt. Auguſt. p. 112. Aurelius Victor, in Philippo. Codex Theodoſ. l. ix. tit. vii. leg. 7. and Godefroy's Commentary, tom. iii. p. 63. Theodoſius aboliſhed the ſubterraneous brothels of Rome, in which the proſtitution of both ſexes was acted with impunity.

197 See the laws of Conſtantine and his ſucceſſors againſt adultery, ſodomy, &c. in the Theodoſian (l. ix. tit. vii. leg. 7. l. xi. tit. xxxvi. leg. 1. 4.) and Juſtinian Codes (l. ix. tit. ix. leg. 30, 31.). Theſe princes ſpeak the language of paſſion as well as of juſtice, and fraudulently aſcribe their own ſeverity to the firſt Cæſars.

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as the divine original of juſtice, and the Chriſtian princes adapted their penal ſtatutes to the degrees of moral and religious turpitude. Adultery was firſt declared to be a capital offence; the frailty of the ſexes was aſſimilated to poiſon or aſſaſſination, to ſorcery or parricide; the ſame penalties were inflicted on the paſſive and active guilt of pæderaſty; and all criminals of free or ſervile condition were either drowned or beheaded, or caſt alive into the avenging flames. The adulterers were ſpared by the common ſympathy of mankind; but the lovers of their own ſex were purſued by general and pious indignation: the impure manners of Greece ſtill prevailed in the cities of Aſia, and every vice was fomented by the celibacy of the monks and clergy. Juſtinian relaxed the puniſhment at leaſt of female infidelity; the guilty ſpouſe was only condemned to ſolitude and penance, and at the end of two years ſhe might be recalled to the arms of a forgiving huſband. But the ſame emperor declared himſelf the implacable enemy of unmanly luſt, and the cruelty of his perſecution can ſcarcely be excuſed by the purity of his motives [198]. In defiance of every principle of juſtice, he ſtretched to paſt as well as future offences the operations of his edicts, with the previous allowance of a ſhort reſpite for confeſſion and pardon. A painful death was inflicted by the amputation of the ſinful inſtrument, or the inſertion of ſharp reeds into the pores and tubes of moſt exquiſite ſenſibility; and Juſtinian

[198] Juſtinian, Novel. lxxvii. cxxxiv. cxli. Procopius, in Anecdot. c. 11. 16. with the Notes of Alemannus. Theophanes, p. 151. Cedrenus, p. 368. Zonaras, l. xiv. p. 64.

defended

defended the propriety of the execution, ſince the criminals would have loſt their hands had they been convicted of ſacrilege. In this ſtate of diſgrace and agony, two biſhops, Iſaiah of Rhodes, and Alexander of Dioſpolis, were dragged through the ſtreets of Conſtantinople, while their brethren were admoniſhed by the voice of a cryer, to obſerve this awful leſſon, and not to pollute the ſanctity of their character. Perhaps theſe prelates were innocent. A ſentence of death and infamy was often founded on the ſlight and ſuſpicious evidence of a child or a ſervant: the guilt of the green faction, of the rich, and of the enemies of Theodora, was preſumed by the judges, and pæderaſty became the crime of thoſe to whom no crime could be imputed. A French philoſopher [199] has dared to remark, that whatever is ſecret muſt be doubtful, and that our natural horror of vice may be abuſed as an engine of tyranny. But the favourable perſuaſion of the ſame writer, that a legiſlator may confide in the taſte and reaſon of mankind, is impeached by the unwelcome diſcovery of the antiquity and extent of the diſeaſe [200].

[199] Monteſquieu, Eſprit des Loix, l. xii. c. 6. That eloquent philoſopher conciliates the rights of liberty and of nature, which ſhould never be placed in oppoſition to each other.

[200] For the corruption of Paleſtine, 2000 years before the Chriſtian æra, ſee the hiſtory and laws of Moſes. Ancient Gaul is ſtigmatiſed by Diodorus Siculus (tom. i. l. v. p. 356.), China by the Mahometan and Chriſtian travellers (Ancient Relations of India and China, p. 34. tranſlated by Renaudot, and his bitter critic the Père Premare, Lettres Edifiantes, tom. xix. p. 435.), and native America by the Spaniſh hiſtorians (Garcilaſſo de la Vega, l. iii. c. 13. Rycaut's tranſlation; and Dictionaire de Bayle, tom. iii. p. 88.). I believe, and hope, that the negroes, in their own country, were exempt from this moral peſtilence.

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Judgments of the people.

The free citizens of Athens and Rome enjoyed, in all criminal caſes, the invaluable privilege of being tried by their country [201]. 1. The adminiſtration of juſtice is the moſt ancient office of a prince: it was exerciſed by the Roman kings, and abuſed by Tarquin; who alone, without law or council, pronounced his arbitrary judgments. The firſt conſuls ſucceeded to this regal prerogative; but the ſacred right of appeal ſoon aboliſhed the juriſdiction of the magiſtrates, and all public cauſes were decided by the ſupreme tribunal of the people. But a wild democracy, ſuperior to the forms, too often diſdains the eſſential principles, of juſtice: the pride of deſpotiſm was envenomed by plebeian envy, and the heroes of Athens might ſometimes applaud the happineſs of the Perſian, whoſe fate depended on the caprice of a *ſingle* tyrant. Some ſalutary reſtraints, impoſed by the people on their own paſſions, were at once the cauſe and effect of the gravity and temperance of the Romans. The right of accuſation was confined to the magiſtrates. A vote of the thirty-five tribes could inflict a fine; but the cognizance of all capital crimes was reſerved by a fundamental law to the aſſembly of the centuries, in which the weight of influence and property was ſure to pre-

[201] The important ſubject of the public queſtions and judgments at Rome is explained with much learning, and in a claſſic ſtyle, by Charles Sigonius (l. iii. de Judiciis, in Opp. tom. iii. 679—864.); and a good abridgment may be found in the Republique Romaine of Beaufort (tom. ii. l. v. p. 1—121.). Thoſe who wiſh for more abſtruſe law, may ſtudy Noodt (de Juriſdictione et Imperio Libri duo, tom. i. p. 93—134.), Heineccius (ad Pandect. l. i. et ii. ad Inſtitut. l. iv. tit. xvii. Element. ad Antiquitat.), and Gravina (Opp. 230—251.).

ponderate.

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ponderate. Repeated proclamations and adjournments were interpoſed, to allow time for prejudice and reſentment to ſubſide; the whole proceeding might be annulled by a ſeaſonable omen, or the oppoſition of a tribune; and ſuch popular trials were commonly leſs formidable to innocence, than they were favourable to guilt. But this union of the judicial and legiſlative powers, left it doubtful whether the accuſed party was pardoned or acquitted; and in the defence of an illuſtrious client, the orators of Rome and Athens addreſs their arguments to the policy and benevolence, as well as to the juſtice of their ſovereign. 2. The taſk of convening the citizens for the trial of each offender became more difficult, as the citizens and the offenders continually multiplied; and the ready expedient was adopted of delegating the juriſdiction of the people to the ordinary magiſtrates, or to extraordinary *inquiſitors*. In the firſt ages theſe queſtions were rare and occaſional. In the beginning of the ſeventh century of Rome they were made perpetual: four prætors were annually empowered to ſit in judgment on the ſtate offences of treaſon, extortion, peculation, and bribery; and Sylla added new prætors and new queſtions for thoſe crimes which more directly injure the ſafety of individuals. By theſe *inquiſitors* the trial was prepared and directed; but they could only pronounce the ſentence of the majority of *judges*, who with ſome truth, and more prejudice, have been compared to the Engliſh juries [202]. To diſcharge this

Select judges.

[202] The office, both at Rome and in England, muſt be conſidered as an occaſional duty, and not a magiſtracy or profeſſion. But the obligation

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this important though burthenſome office, an annual liſt of ancient and reſpectable citizens was formed by the prætor. After many conſtitutional ſtruggles, they were choſen in equal numbers from the ſenate, the equeſtrian order, and the people; four hundred and fifty were appointed for ſingle queſtions; and the various rolls or *decuries* of judges muſt have contained the names of ſome thouſand Romans, who repreſented the judicial authority of the ſtate. In each particular cauſe, a ſufficient number was drawn from the urn; their integrity was guarded by an oath; the mode of ballot ſecured their independence; the ſuſpicion of partiality was removed by the mutual challenges of the accuſer and defendant; and the judges of Milo, by the retrenchment of fifteen on each ſide, were reduced to fifty-one voices or tablets, of acquittal, of condemnation, or of favourable doubt [203]. 3. In his civil juriſdiction, the prætor of the city was truly a judge, and almoſt a legiſlator; but as ſoon as he had preſcribed the action of law, he often referred to a delegate the determination of the fact. With the increaſe of legal proceedings, the tribunal of the centumvirs, in which he preſided, acquired more weight and reputation. But whether he acted alone, or with the advice of his council, the moſt abſolute powers might be

obligation of an unanimous verdict is peculiar to our laws, which condemn the juryman to undergo the torture from whence they have exempted the criminal.

203 We are indebted for this intereſting fact to a fragment of Aſconius Pedianus, who flouriſhed under the reign of Tiberius. The loſs of his Commentaries on the Orations of Cicero has deprived us of a valuable fund of hiſtorical and legal knowledge.

truſted

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truſted to a magiſtrate who was annually choſen by the votes of the people. The rules and precautions of freedom have required ſome explanation; the order of deſpotiſm is ſimple and inanimate. Before the age of Juſtinian, or perhaps of Diocletian, the decuries of Roman judges had ſunk to an empty title: the humble advice of the aſſeſſors might be accepted or deſpiſed; and in each tribunal the civil and criminal juriſdiction was adminiſtered by a ſingle magiſtrate, who was raiſed and diſgraced by the will of the emperor.

Aſſeſſors.

A Roman accuſed of any capital crime might prevent the ſentence of the law by voluntary exile, or death. Till his guilt had been legally proved, his innocence was preſumed, and his perſon was free: till the votes of the laſt *century* had been counted and declared, he might peaceably ſecede to any of the allied cities of Italy, or Greece, or Aſia [204]. His fame and fortunes were preſerved, at leaſt to his children, by this civil death; and he might ſtill be happy in every rational and ſenſual enjoyment, if a mind accuſtomed to the ambitious tumult of Rome could ſupport the uniformity and ſilence of Rhodes or Athens. A bolder effort was required to eſcape from the tyranny of the Cæſars; but this effort was rendered familiar by the maxims of the Stoics, the example of the braveſt Romans, and the legal encouragements of ſuicide. The bodies of condemned criminals were expoſed to public ignominy, and their children, a

Voluntary exile and death.

[204] Polyb. l. vi. p. 643. The extenſion of the empire and *city* of Rome, obliged the exile to ſeek a more diſtant place of retirement.

more

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more ſerious evil, were reduced to poverty by the confiſcation of their fortunes. But if the victims of Tiberius and Nero anticipated the decree of the prince or ſenate, their courage and diſpatch were recompenſed by the applauſe of the public, the decent honours of burial, and the validity of their teſtaments [205]. The exquiſite avarice and cruelty of Domitian appears to have deprived the unfortunate of this laſt conſolation, and it was ſtill denied even by the clemency of the Antonines. A voluntary death, which, in the caſe of a capital offence, intervened between the accuſation and the ſentence, was admitted as a confeſſion of guilt, and the ſpoils of the deceaſed were ſeized by the inhuman claims of the treaſury [206]. Yet the civilians have always reſpected the natural right of a citizen to diſpoſe of his life; and the poſthumous diſgrace invented by Tarquin [207] to check the deſpair of his ſubjects, was never revived or imitated by ſucceeding tyrants. The powers of this world have indeed loſt their dominion over him who is reſolved on death; and his arm can only be reſtrained by the religious apprehenſion of a future ſtate. Suicides

[205] Qui de ſe ſtatuebant, humabantur corpora, manebant teſtamenta; pretium feſtinandi. Tacit. Annal. vi. 25. with the Notes of Lipſius.

[206] Julius Paulus (Sentent. Recept. l. v. tit. xii. p. 476.), the Pandects (l. xlviii. tit. xxi.), the Code (l. ix. tit. l.), Bynkerſhoek (tom. i. p. 59. Obſervat. J. C. R. iv. 4.), and Monteſquieu (Eſprit des Loix, l. xxix. c. 9.), define the civil limitations of the liberty and privileges of ſuicide. The criminal penalties are the production of a later and darker age.

[207] Plin. Hiſt. Natur. xxxvi. 24. When he fatigued his ſubjects in building the Capitol, many of the labourers were provoked to diſpatch themſelves; he nailed their dead bodies to croſſes.

are

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are enumerated by Virgil among the unfortunate, rather than the guilty [208]; and the poetical fables of the infernal ſhades could not ſeriouſly influence the faith or practice of mankind. But the precepts of the goſpel, or the church, have at length impoſed a pious ſervitude on the minds of Chriſtians, and condemn them to expect, without a murmur, the laſt ſtroke of diſeaſe or the executioner.

Abuſes of civil juriſprudence.

The penal ſtatutes form a very ſmall proportion of the ſixty-two books of the Code and Pandects: and, in all judicial proceeding, the life or death of a citizen is determined with leſs caution and delay than the moſt ordinary queſtion of covenant or inheritance. This ſingular diſtinction, though ſomething may be allowed for the urgent neceſſity of defending the peace of ſociety, is derived from the nature of criminal and civil juriſprudence. Our duties to the ſtate are ſimple and uniform; the law by which he is condemned, is inſcribed not only on braſs or marble, but on the conſcience of the offender, and his guilt is commonly proved by the teſtimony of a ſingle fact. But our relations to each other are various and infinite: our obligations are created, annulled, and modified, by injuries, benefits, and promiſes; and the interpretation of voluntary contracts and teſtaments, which are often dictated by fraud or ignorance, affords a long and laborious exerciſe to the ſagacity of the

[208] The ſole reſemblance of a violent and premature death has engaged Virgil (Æneid vi. 434—439.) to confound ſuicides with infants, lovers, and perſons unjuſtly condemned. Heyne, the beſt of his editors, is at a loſs to deduce the idea, or aſcertain the juriſprudence, of the Roman poet.

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judge. The buſineſs of life is multiplied by the extent of commerce and dominion, and the reſidence of the parties in the diſtant provinces of an empire, is productive of doubt, delay, and inevitable appeals from the local to the ſupreme magiſtrate. Juſtinian, the Greek emperor of Conſtantinople and the Eaſt, was the legal ſucceſſor of the Latian ſhepherd who had planted a colony on the banks of the Tyber. In a period of thirteen hundred years, the laws had reluctantly followed the changes of government and manners; and the laudable deſire of conciliating ancient names with recent inſtitutions, deſtroyed the harmony, and ſwelled the magnitude, of the obſcure and irregular ſyſtem. The laws which excuſe on any occaſions the ignorance of their ſubjects, confeſs their own imperfections; the civil juriſprudence, as it was abridged by Juſtinian, ſtill continued a myſterious ſcience and a profitable trade, and the innate perplexity of the ſtudy was involved in tenfold darkneſs by the private induſtry of the practitioners. The expence of the purſuit ſometimes exceeded the value of the prize, and the faireſt rights were abandoned by the poverty or prudence of the claimants. Such coſtly juſtice might tend to abate the ſpirit of litigation, but the unequal preſſure ſerves only to increaſe the influence of the rich, and to aggravate the miſery of the poor. By theſe dilatory and expenſive proceedings, the wealthy pleader obtains a more certain advantage than he could hope from the accidental corruption of his judge. The experience of an abuſe, from which our own age and country are not perfectly exempt,

may ſometimes provoke a generous indignation, and extort the haſty wiſh of exchanging our elaborate juriſprudence for the ſimple and ſummary decrees of a Turkiſh cadhi. Our calmer reflection will ſuggeſt, that ſuch forms and delays are neceſſary to guard the perſon and property of the citizen; that the diſcretion of the judge is the firſt engine of tyranny, and that the laws of a free people ſhould foreſee and determine every queſtion that may probably ariſe in the exerciſe of power and the tranſactions of induſtry. But the government of Juſtinian united the evils of liberty and ſervitude; and the Romans were oppreſſed at the ſame time by the multiplicity of their laws and the arbitrary will of their maſter.

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Reign of the younger Juſtin—Embaſſy of the Avars.—Their Settlement on the Danube.—Conqueſt of Italy by the Lombards.—Adoption and Reign of Tiberius.—Of Maurice.—State of Italy under the Lombards and the Exarchs.—Of Ravenna.—Diſtreſs of Rome.—Character and Pontificate of Gregory the Firſt.

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Death of Juſtinian, A.D. 565, Nov. 14.

DURING the laſt years of Juſtinian, his infirm mind was devoted to heavenly contemplation, and he neglected the buſineſs of the lower world. His ſubjects were impatient of the long continuance of his life and reign: yet all who were capable of reflection, apprehended the moment of his death, which might involve the capital in tumult, and the empire in civil war. Seven nephews[1] of the childleſs monarch, the ſons or grandſons of his brother and ſiſter, had been educated in the ſplendour of a princely fortune; they had been ſhewn in high commands to the provinces and armies; their characters were known, their followers were zealous, and as the jealouſy of age poſtponed the declaration of a ſucceſſor, they might expect with equal hopes the inheritance of

[1] See the family of Juſtin and Juſtinian in the Familiæ Byzantinæ of Ducange, p. 89—101. The devout civilians Ludewig (in Vit. Juſtinian. p. 131.) and Heineccius (Hiſt. Juris Roman. p. 374.) have ſince illuſtrated the genealogy of their favourite prince.

their

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their uncle. He expired in his palace after a reign of thirty-eight years; and the deciſive opportunity was embraced by the friends of Juſtin the ſon of Vigilantia [a]. At the hour of midnight, his domeſtics were awakened by an importunate crowd who thundered at his door, and obtained admittance by revealing themſelves to be the principal members of the ſenate. Theſe welcome deputies announced the recent and momentous ſecret of the emperor's deceaſe: reported, or perhaps invented, his dying choice of the beſt beloved and moſt deſerving of his nephews, and conjured Juſtin to prevent the diſorders of the multitude, if they ſhould perceive, with the return of light, that they were left without a maſter. After compoſing his countenance to ſurpriſe, ſorrow, and decent modeſty, Juſtin, by the advice of his wife Sophia, ſubmitted to the authority of the ſenate. He was conducted with ſpeed and ſilence to the palace, the guards ſaluted their new ſovereign, and the martial and religious rites of his cornonation were diligently accompliſhed. By the hands of the proper officers, he was inveſted with the Imperial garments, the red buſkins, white tunic, and purple robe. A fortunate ſoldier, whom he inſtantly promoted to the rank of tribune, encircled his neck with a military collar; four robuſt youths exalted him on a ſhield: he ſtood firm and erect to receive the adoration of his ſubjects; and their

[a] In the ſtory of Juſtin's elevation I have tranſlated, into ſimple and conciſe proſe, the eight hundred verſes of the two firſt books of Corippus, de Laudibus Juſtini, Appendix Hiſt. Byzant. p. 401—416. Rome, 1777.

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Reign of Juſtin II. or the younger, A. D. 565, Nov. 15— A. D. 574, December.

choice was ſanctified by the benediction of the patriarch, who impoſed the diadem on the head of an orthodox prince. The hippodrome was already filled with innumerable multitudes, and no ſooner did the emperor appear on his throne, than the voices of the blue and the green factions were confounded in the ſame loyal acclamations. In the ſpeeches which Juſtin addreſſed to the ſenate and people, he promiſed to correct the abuſes which had diſgraced the age of his predeceſſor, diſplayed the maxims of a juſt and beneficent government, and declared, that on the approaching calends of January [3], he would revive in his own perſon the name and liberality of a Roman conſul. The immediate diſcharge of his uncle's debts exhibited a ſolid pledge of his faith and generoſity; a train of porters, laden with bags of gold, advanced into the midſt of the hippodrome, and the hopeleſs creditors of Juſtinian accepted this equitable payment as a voluntary gift. Before the end of three years, his example was imitated and ſurpaſſed by the empreſs Sophia, who delivered many indigent citizens from the weight of debt and uſury: an act of benevolence the beſt entitled to gratitude, ſince it relieves the moſt intolerable diſtreſs; but in which the bounty of a prince is the moſt liable to be abuſed by the claims of prodigality and fraud [4].

His conſulſhip, A.D. 566, January 1.

3 It is ſurpriſing how Pagi (Critica in Annal. Baron. tom. ii. p. 639.) could be tempted by any chronicles to contradict the plain and deciſive text of Corippus (vicina dona, l. ii. 354. vicina dies, l. iv. 1.), and to poſtpone, till A. D. 567, the conſulſhip of Juſtin.

4 Theophan. Chronograph. p. 205. Whenever Cedrenus or Zonaras are mere tranſcribers, it is ſuperfluous to allege their teſtimony.

On

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Embaſſy of the Avars, A.D. 566.

On the ſeventh day of his reign, Juſtin gave audience to the ambaſſadors of the Avars, and the ſcene was decorated to impreſs the Barbarians with aſtoniſhment, veneration, and terror. From the palace gate, the ſpacious courts and long porticoes were lined with the lofty creſts and gilt bucklers of the guards, who preſented their ſpears and axes with more confidence than they would have ſhewn in a field of battle. The officers who exerciſed the power, or attended the perſon, of the prince, were attired in their richeſt habits, and arranged according to the military and civil order of the hierarchy. When the veil of the ſanctuary was withdrawn, the ambaſſadors beheld the emperor of the Eaſt on his throne, beneath a canopy or dome, which was ſupported by four columns, and crowned with a winged figure of Victory. In the firſt emotions of ſurpriſe, they ſubmitted to the ſervile adoration of the Byzantine court; but as ſoon as they roſe from the ground, Targetius, the chief of the embaſſy, expreſſed the freedom and pride of a Barbarian. He extolled, by the tongue of his interpreter, the greatneſs of the chagan, by whoſe clemency the kingdoms of the South were permitted to exiſt, whoſe victorious ſubjects had traverſed the frozen rivers of Scythia, and who now covered the banks of the Danube with innumerable tents. The late emperor had cultivated, with annual and coſtly gifts, the friendſhip of a grateful monarch, and the enemies of Rome had reſpected the allies of the Avars. The ſame prudence would inſtruct the nephew of Juſtinian to imitate the liberality of his uncle, and to purchaſe the bleſſings of peace from

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an invincible people, who delighted and excelled in the exerciſe of war. The reply of the emperor was delivered in the ſame ſtrain of haughty defiance, and he derived his confidence from the God of the Chriſtians, the ancient glory of Rome, and the recent triumphs of Juſtinian. "The empire," ſaid he, "abounds with men and horſes, and arms "ſufficient to defend our frontiers, and to chaſtiſe "the Barbarians. You offer aid, you threaten "hoſtilities: we deſpiſe your enmity and your aid. "The conquerors of the Avars ſolicit our alli-"ance; ſhall we dread their fugitives and exiles[5]? "The bounty of our uncle was granted to your "miſery, to your humble prayers. From us you "ſhall receive a more important obligation, the "knowledge of your own weakneſs. Retire from "our preſence; the lives of ambaſſadors are ſafe; "and if you return to implore our pardon, per-"haps you will taſte of our benevolence[6]." On the report of his ambaſſadors, the chagan was

[5] Corippus, l. iii. 390. The unqueſtionable ſenſe relates to the Turks, the conquerors of the Avars; but the word *ſcultor* has no apparent meaning, and the ſole MS. of Corippus, from whence the firſt edition (1581, apud Plantin) was printed, is no longer viſible. The laſt editor, Foggini of Rome, has inſerted the conjectural emendation of *ſoldan*: but the proofs of Ducange (Joinville, Diſſert. xvi. p. 238—240.) for the early uſe of this title among the Turks and Perſians, are weak or ambiguous. And I muſt incline to the authority of d'Herbelot (Bibliothéque Orient. p. 825.), who aſcribes the word to the Arabic and Chaldæan tongues, and the date to the beginning of the xi^th century, when it was beſtowed by the khalif of Bagdad on Mahmud prince of Gazna, and conqueror of India.

[6] For theſe characteriſtic ſpeeches, compare the verſe of Corippus (l. iii. 251—401.) with the proſe of Menander (Excerpt. Legation. p. 102, 103.). Their diverſity proves that they did not copy each other; their reſemblance, that they drew from a common original.

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awed by the apparent firmneſs of a Roman emperor, of whoſe character and reſources he was ignorant. Inſtead of executing his threats againſt the Eaſtern empire, he marched into the poor and ſavage countries of Germany, which were ſubject to the dominion of the Franks. After two doubtful battles, he conſented to retire, and the Auſtraſian king relieved the diſtreſs of his camp with an immediate ſupply of corn and cattle [7]. Such repeated diſappointments had chilled the ſpirit of the Avars, and their power would have diſſolved away in the Sarmatian deſert, if the alliance of Alboin, king of the Lombards, had not given a new object to their arms, and a laſting ſettlement to their wearied fortunes.

Alboin, king of the Lombards—his valour, love, and revenge.

While Alboin ſerved under his father's ſtandard, he encountered in battle, and tranſpierced with his lance, the rival prince of the Gepidæ. The Lombards, who applauded ſuch early proweſs, requeſted his father with unanimous acclamations, that the heroic youth, who had ſhared the dangers of the field, might be admitted to the feaſt of victory. "You are not unmindful," replied the inflexible Audoin, "of the wiſe cuſtoms of our anceſtors. "Whatever may be his merit, a prince is incapable "of ſitting at table with his father till he has re- "ceived his arms from a foreign and royal hand." Alboin bowed with reverence to the inſtitutions of his country; ſelected forty companions, and boldly viſited the court of Turiſund king of the Gepidæ,

7 For the Auſtraſian war, ſee Menander (Excerpt. Legat. p. 110.), Gregory of Tours (Hiſt. Franc. l. iv. c. 29.), and Paul the deacon (de Geſt. Langobard. l. ii. c. 10.).

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who embraced and entertained, according to the laws of hoſpitality, the murderer of his ſon. At the banquet, whilſt Alboin occupied the ſeat of the youth whom he had ſlain, a tender remembrance aroſe in the mind of Turiſund. "How dear "is that place—how hateful is that perſon—" were the words that eſcaped, with a ſigh, from the indignant father. His grief exaſperated the national reſentment of the Gepidæ; and Cunimund, his ſurviving ſon, was provoked by wine, or fraternal affection, to the deſire of vengeance. "The "Lombards," ſaid the rude Barbarian, "re- "ſemble, in figure and in ſmell, the mares of our "Sarmatian plains." And this inſult was a coarſe alluſion to the white bands which enveloped their legs. "Add another reſemblance," replied an audacious Lombard; "you have felt how ſtrongly "they kick. Viſit the plain of Aſfeld, and ſeek "for the bones of thy brother; they are mingled "with thoſe of the vileſt animals." The Gepidæ, a nation of warriors, ſtarted from their ſeats, and the fearleſs Alboin, with his forty companions, laid their hands on their ſwords. The tumult was appeaſed by the venerable interpoſition of Turiſund. He ſaved his own honour, and the life of his gueſt; and after the ſolemn rites of inveſtiture, diſmiſſed the ſtranger in the bloody arms of his ſon; the gift of a weeping parent. Alboin returned in triumph; and the Lombards, who celebrated his matchleſs intrepidity, were compelled to praiſe the virtues of an enemy[8]. In this extraordinary

[8] Paul Warnefrid, the deacon of Friuli, de Geſt. Langobard. l. i. c. 23, 24. His pictures of national manners, though rudely ſketched, are

dinary visit he had probably seen the daughter of Cunimund, who soon after ascended the throne of the Gepidæ. Her name was Rosamond, an appellation expressive of female beauty, and which our own history or romance has consecrated to amorous tales. The king of the Lombards (the father of Alboin no longer lived) was contracted to the grand-daughter of Clovis; but the restraints of faith and policy soon yielded to the hope of possessing the fair Rosamond, and of insulting her family and nation. The arts of persuasion were tried without success; and the impatient lover, by force and stratagem, obtained the object of his desires. War was the consequence which he foresaw and solicited; but the Lombards could not long withstand the furious assault of the Gepidæ, who were sustained by a Roman army. And as the offer of marriage was rejected with contempt, Alboin was compelled to relinquish his prey, and to partake of the disgrace which he had inflicted on the house of Cunimund [9].

The Lombards and Avars destroy the king and kingdom of the Gepidæ, A.D. 566.

When a public quarrel is envenomed by private injuries, a blow that is not mortal or decisive can be productive only of a short truce, which allows the unsuccessful combatant to sharpen his arms for a new encounter. The strength of Alboin had been found unequal to the gratification of his love, ambition, and revenge: he condescended to im-

are more lively and faithful than those of Bede, or Gregory of Tours.

9 The story is told by an impostor (Theophylact. Simocat. l. vi. c. 10.); but he had art enough to build his fictions on public and notorious facts.

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plore the formidable aid of the chagan; and the arguments that he employed are expreſſive of the art and policy of the Barbarians. In the attack of the Gepidæ, he had been prompted by the juſt deſire of extirpating a people whom their alliance with the Roman empire had rendered the common enemies of the nations, and the perſonal adverſaries of the chagan. If the forces of the Avars and the Lombards ſhould unite in this glorious quarrel, the victory was ſecure, and the reward ineſtimable: the Danube, the Hebrus, Italy, and Conſtantinople, would be expoſed, without a barrier, to their invincible arms. But if they heſitated or delayed to prevent the malice of the Romans, the ſame ſpirit which had inſulted, would purſue the Avars to the extremity of the earth. Theſe ſpecious reaſons were heard by the chagan with coldneſs and diſdain: he detained the Lombard ambaſſadors in his camp, protracted the negotiation, and by turns alleged his want of inclination, or his want of ability, to undertake this important enterpriſe. At length he ſignified the ultimate price of his alliance, that the Lombards ſhould immediately preſent him with the tithe of their cattle; that the ſpoils and captives ſhould be equally divided; but that the lands of the Gepidæ ſhould become the ſole patrimony of the Avars. Such hard conditions were eagerly accepted by the paſſions of Alboin; and as the Romans were diſſatisfied with the ingratitude and perfidy of the Gepidæ, Juſtin abandoned that incorrigible people to their fate, and remained the tranquil ſpectator of this unequal conflict. The deſpair of Cunimund was active and dangerous.

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dangerous. He was informed that the Avars had entered his confines; but on the ſtrong aſſurance, that, after the defeat of the Lombards, theſe foreign invaders would eaſily be repelled, he ruſhed forwards to encounter the implacable enemy of his name and family. But the courage of the Gepidæ could ſecure them no more than an honourable death. The braveſt of the nation fell in the field of battle; the king of the Lombards contemplated with delight the head of Cunimund, and his ſkull was faſhioned into a cup to ſatiate the hatred of the conqueror, or, perhaps, to comply with the ſavage cuſtom of his country [10]. After this victory, no farther obſtacle could impede the progreſs of the confederates, and they faithfully executed the terms of their agreement [11]. The fair countries of Walachia, Moldavia, Tranſylvania, and the parts of Hungary beyond the Danube, were occupied, without reſiſtance, by a new colony of Scythians; and the Dacian empire of the chagans ſubſiſted with ſplendour above two hundred and thirty years. The nation of the Gepidæ was diſſolved; but in the diſtribution of the captives, the ſlaves of the Avars were leſs fortunate than the companions of the Lombards, whoſe generoſity adopted a valiant foe, and whoſe

[10] It appears from Strabo, Pliny, and Ammianus Marcellinus, that the ſame practice was common among the Scythian tribes (Muratori, Scriptores Rer. Italic. tom. i. p. 424.). The *ſcalps* of North America are likewiſe trophies of valour. The ſkull of Cunimund was preſerved above two hundred years among the Lombards; and Paul himſelf was one of the gueſts to whom duke Ratchis exhibited this cup on a high feſtival (l. ii. c. 28.).

[11] Paul, l. i. c. 27. Menander, in Excerpt. Legat. p. 110, 111.

freedom

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freedom was incompatible with cool and deliberate tyranny. One moiety of the ſpoil introduced into the camp of Alboin more wealth than a Barbarian could readily compute. The fair Roſamond was perſuaded, or compelled, to acknowledge the rights of her victorious lover; and the daughter of Cunimund appeared to forgive thoſe crimes which might be imputed to her own irreſiſtible charms.

Alboin undertakes the conqueſt of Italy, A. D. 567.

The deſtruction of a mighty kingdom eſtabliſhed the fame of Alboin. In the days of Charlemagne, the Bavarians, the Saxons, and the other tribes of the Teutonic language, ſtill repeated the ſongs which deſcribed the heroic virtues, the valour, liberality, and fortune of the king of the Lombards [12]. But his ambition was yet unſatisfied; and the conqueror of the Gepidæ turned his eyes from the Danube to the richer banks of the Po and the Tyber. Fifteen years had not elapſed, ſince his ſubjects, the confederates of Narſes, had viſited the pleaſant climate of Italy: the mountains, the rivers, the highways, were familiar to their memory: the report of their ſucceſs, perhaps the view of their ſpoils, had kindled in the

[12] Ut hactenus etiam tam apud Bajoariorum gentem, quam et Saxonum ſed et alios ejuſdem linguæ homines .... in eorum carminibus celebretur. Paul, l. i. c. 27. He died A. D. 799 (Muratori, in Præfat. tom. i. p. 397.). Theſe German ſongs, ſome of which might be as old as Tacitus (de Moribus Germ. c. 2.), were compiled and tranſcribed by Charlemagne. Barbara et antiquiſſima carmina, quibus veterum regum actus et bella canebantur ſcripſit memoriæque mandavit (Eginard, in Vit. Carol. Magn. c. 29. p. 130, 131.). The poems, which Goldaſt commends (Animadverſ. ad Eginard. p. 207.), appear to be recent and contemptible romances.

riſing

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riſing generation the flame of emulation and enterpriſe. Their hopes were encouraged by the ſpirit and eloquence of Alboin; and it is affirmed, that he ſpoke to their ſenſes, by producing, at the royal feaſt, the faireſt and moſt exquiſite fruits that grew ſpontaneouſly in the garden of the world. No ſooner had he erected his ſtandard, than the native ſtrength of the Lombards was multiplied by the adventurous youth of Germany and Scythia. The robuſt peaſantry of Noricum and Pannonia had reſumed the manners of Barbarians; and the names of the Gepidæ, Bulgarians, Sarmatians, and Bavarians, may be diſtinctly traced in the provinces of Italy [13]. Of the Saxons, the old allies of the Lombards, twenty thouſand warriors, with their wives and children, accepted the invitation of Alboin. Their bravery contributed to his ſucceſs; but the acceſſion or the abſence of their numbers was not ſenſibly felt in the magnitude of his hoſt. Every mode of religion was freely practiſed by its reſpective votaries. The king of the Lombards had been educated in the Arian hereſy; but the Catholics, in their public worſhip, were allowed to pray for his converſion; while the more ſtubborn Barbarians ſacrificed a ſhe-goat, or perhaps a captive, to the gods of their fathers [14]. The Lombards, and their confederates, were

[13] The other nations are rehearſed by Paul (l. ii. c. 6. 26.). Muratori (Antichita Italiane, tom. i. diſſert. i. p. 4.) has diſcovered the village of the Bavarians, three miles from Modena.

[14] Gregory the Roman (Dialog. l. iii. c. 27, 28. apud Baron. Annal. Eccleſ. A. D. 579, N° 10.), ſuppoſes that they likewiſe adored this ſhe-goat. I know but of one religion in which the god and the victim are the ſame.

united

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united by their common attachment to a chief, who excelled in all the virtues and vices of a ſavage hero; and the vigilance of Alboin provided an ample magazine of offenſive and defenſive arms for the uſe of the expedition. The portable wealth of the Lombards attended the march; their lands they cheerfully relinquiſhed to the Avars, on the ſolemn promiſe, which was made and accepted without a ſmile, that if they failed in the conqueſt of Italy, theſe voluntary exiles ſhould be reinſtated in their former poſſeſſions.

Diſaffection and death of Narſes.

They might have failed, if Narſes had been the antagoniſt of the Lombards; and the veteran warriors, the aſſociates of his Gothic victory, would have encountered with reluctance an enemy whom they dreaded and eſteemed. But the weakneſs of the Byzantine court was ſubſervient to the Barbarian cauſe; and it was for the ruin of Italy, that the emperor once liſtened to the complaints of his ſubjects. The virtues of Narſes were ſtained with avarice; and in his provincial reign of fifteen years, he accumulated a treaſure of gold and ſilver which ſurpaſſed the modeſty of a private fortune. His government was oppreſſive or unpopular, and the general diſcontent was expreſſed with freedom by the deputies of Rome. Before the throne of Juſtin they boldly declared, that their Gothic ſervitude had been more tolerable than the deſpotiſm of a Greek eunuch; and that, unleſs their tyrant were inſtantly removed, they would conſult their own happineſs in the choice of a maſter. The apprehenſion of a revolt was urged by the voice of envy and detraction, which had ſo recently triumph-

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ed over the merit of Beliſarius. A new exarch, Longinus, was appointed to ſuperſede the conqueror of Italy, and the baſe motives of his recall were revealed in the inſulting mandate of the empreſs Sophia, "that he ſhould leave to *men* the "exerciſe of arms, and return to his proper ſtation "among the maidens of the palace, where a diſtaff "ſhould be again placed in the hand of the "eunuch." "I will ſpin her ſuch a thread, as "ſhe ſhall not eaſily unravel!" is ſaid to have been the reply which indignation and conſcious virtue extorted from the hero. Inſtead of attending, a ſlave and a victim, at the gate of the Byzantine palace, he retired to Naples, from whence (if any credit is due to the belief of the times) Narſes invited the Lombards to chaſtiſe the ingratitude of the prince and people[15]. But the paſſions of the people are furious and changeable, and the Romans ſoon recollected the merits, or dreaded the reſentment, of their victorious general. By the mediation of the pope, who undertook a ſpecial pilgrimage to Naples, their repentance was accepted; and Narſes, aſſuming a milder aſpect and a more dutiful language, conſented to fix his reſi-

15 The charge of the deacon againſt Narſes (l. ii. c. 5.) may be groundleſs; but the weak apology of the cardinal (Baron. Annal. Eccleſ. A. D. 567, N° 8—12.) is rejected by the beſt critics—Pagi (tom. ii. p. 639, 640.), Muratori (Annali d'Italia, tom. v. p. 160—163.), and the laſt editors, Horatius Blancus (Script. Rerum Italic. tom. i. p. 427, 428.) and Philip Argelatus (Sigon. Opera, tom. ii. p. 11, 12.). The Narſes who aſſiſted at the coronation of Juſtin (Corippus, l. iii. 221.) is clearly underſtood to be a different perſon.

dence

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dence in the Capitol. His death [16], though in the extreme period of old age, was unſeaſonable and premature, ſince *his* genius alone could have repaired the laſt and fatal error of his life. The reality, or the ſuſpicion, of a conſpiracy diſarmed and diſunited the Italians. The ſoldiers reſented the diſgrace, and bewailed the loſs, of their general. They were ignorant of their new exarch; and Longinus was himſelf ignorant of the ſtate of the army and the province. In the preceding years Italy had been deſolated by peſtilence and famine, and a diſaffected people aſcribed the calamities of Nature to the guilt or folly of their rulers [17].

Conqueſt of a great part of Italy by the Lombards, A. D. 568—570.

Whatever might be the grounds of his ſecurity, Alboin neither expected nor encountered a Roman army in the field. He aſcended the Julian Alps, and looked down with contempt and deſire on the fruitful plains to which his victory communicated the perpetual appellation of LOMBARDY. A faithful chieftain, and a ſelect band, were ſtationed at Forum Julii, the modern Friuli, to guard the paſſes of the mountains. The Lombards reſpected the ſtrength of Pavia, and liſtened to the prayers of the Treviſans: their ſlow and heavy multitudes proceeded to occupy the palace and city of Verona;

[16] The death of Narſes is mentioned by Paul, l. ii. c. 11. Anaſtaſ. in Vit. Johan. iii. p. 43. Agnellus, Liber Pontifical. Raven. in Script. Rer. Italicarum, tom. ii. part i. p. 114. 124. Yet I cannot believe with Agnellus that Narſes was ninety five years of age. Is it probable that all his exploits were performed at fourſcore?

[17] The deſigns of Narſes and of the Lombards for the invaſion of Italy are expoſed in the laſt chapter of the firſt book, and the ſeven firſt chapters of the ſecond book, of Paul the deacon.

and

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and Milan, now riſing from her aſhes, was inveſted by the powers of Alboin five months after his departure from Pannonia. Terror preceded his march; he found every where, or he left, a dreary ſolitude; and the puſillanimous Italians preſumed, without a trial, that the ſtranger was invincible. Eſcaping to lakes, or rocks, or moraſſes, the affrighted crowds concealed ſome fragments of their wealth, and delayed the moment of their ſervitude. Paulinus, the patriarch of Aquileia, removed his treaſures, ſacred and profane, to the iſle of Grado [18], and his ſucceſſors were adopted by the infant republic of Venice, which was continually enriched by the public calamities. Honoratus, who filled the chair of St. Ambroſe, had credulouſly accepted the faithleſs offers of a capitulation; and the archbiſhop, with the clergy and nobles of Milan, were driven by the perfidy of Alboin to ſeek a refuge in the leſs acceſſible ramparts of Genoa. Along the maritime coaſt, the courage of the inhabitants was ſupported by the facility of ſupply, the hopes of relief, and the power of eſcape; but from the Trentine hills to the gates of Ravenna and Rome, the inland regions of Italy became, without a battle or a ſiege, the laſting patrimony of the Lombards. The ſubmiſſion of the people invited the Barbarian

[18] Which from this tranſlation was called New Aquileia (Chron. Venet. p. 3.). The patriarch of Grado ſoon became the firſt citizen of the republic (p. 9, &c.), but his ſeat was not removed to Venice till the year 1450. He is now decorated with titles and honours; but the genius of the church has bowed to that of the ſtate, and the government of a Catholic city is ſtrictly preſbyterian. Thomaſſin, Diſcipline de l'Egliſe, tom. i. p. 156, 157. 161—165. Amelot de la Houſſaye, Gouvernment de Veniſe, tom. i. p. 256—261.

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to aſſume the character of a lawful ſovereign, and the helpleſs exarch was confined to the office of announcing to the emperor Juſtin, the rapid and irretrievable loſs of his provinces and cities [19]. One city, which had been diligently fortified by the Goths, reſiſted the arms of a new invader; and while Italy was ſubdued by the flying detachments of the Lombards, the royal camp was fixed above three years before the weſtern gate of Ticinum, or Pavia. The ſame courage which obtains the eſteem of a civilized enemy, provokes the fury of a ſavage, and the impatient beſieger had bound himſelf by a tremendous oath, that age, and ſex, and dignity, ſhould be confounded in a general maſſacre. The aid of famine at length enabled him to execute his bloody vow; but as Alboin entered the gate, his horſe ſtumbled, fell, and could not be raiſed from the ground. One of his attendants was prompted by compaſſion, or piety, to interpret this miraculous ſign of the wrath of Heaven: the conqueror pauſed and relented; he ſheathed his ſword, and, peacefully repoſing himſelf in the palace of Theodoric, proclaimed to the trembling multitude, that they ſhould live and obey. Delighted with the ſituation of a city, which was endeared to his pride by the difficulty of the purchaſe, the prince of the Lombards diſdained the ancient glories of Milan; and Pavia, during

[19] Paul has given a deſcription of Italy, as it was then divided into eighteen regions (l. ii. c. 14—24.). The Diſſertatio Chorographica de Italiâ Medii Ævi, by Father Beretti, a Benedictine monk, and regius profeſſor at Pavia, has been uſefully conſulted.

ſome

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ſome ages, was reſpected as the capital of the kingdom of Italy [20].

Alboin is murdered by his wife Roſamond, A. D. 573, June 28.

The reign of the founder was ſplendid and tranſient; and before he could regulate his new conqueſts, Alboin fell a ſacrifice to domeſtic treaſon and female revenge. In a palace near Verona, which had not been erected for the Barbarians, he feaſted the companions of his arms; intoxication was the reward of valour, and the king himſelf was tempted by appetite, or vanity, to exceed the ordinary meaſure of his intemperance. After draining many capacious bowls of Rhætian or Falernian wine, he called for the ſkull of Cunimund, the nobleſt and moſt precious ornament of his ſideboard. The cup of victory was accepted with horrid applauſe by the circle of the Lombard chiefs. "Fill it again with wine," exclaimed the inhuman conqueror, "fill it to the brim; carry "this goblet to the queen, and requeſt in my name "that ſhe would rejoice with her father." In an agony of grief and rage, Roſamond had ſtrength to utter, "Let the will of my lord be obeyed!" and touching it with her lips, pronounced a ſilent imprecation, that the inſult ſhould be waſhed away in the blood of Alboin. Some indulgence might be due to the reſentment of a daughter, if ſhe had not already violated the duties of a wife. Implacable in her enmity, or inconſtant in her love, the

[20] For the conqueſt of Italy, ſee the original materials of Paul (l. ii. c. 7—10. 12. 14. 25, 26, 27.), the eloquent narrative of Sigonius (tom. ii. de Regno Italiæ, l. i. p. 13—19.), and the correct and critical review of Muratori (Annali d'Italia, tom. v. p. 164—180.).

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queen of Italy had ſtooped from the throne to the arms of a ſubject, and Helmichis, the king's armour-bearer, was the ſecret miniſter of her pleaſure and revenge. Againſt the propoſal of the murder, he could no longer urge the ſcruples of fidelity or gratitude; but Helmichis trembled, when he revolved the danger as well as the guilt, when he recollected the matchleſs ſtrength and intrepidity of a warrior, whom he had ſo often attended in the field of battle. He preſſed, and obtained, that one of the braveſt champions of the Lombards ſhould be aſſociated to the enterpriſe, but no more than a promiſe of ſecrecy could be drawn from the gallant Peredeus; and the mode of ſeduction employed by Roſamond betrays her ſhameleſs inſenſibility both to honour and love. She ſupplied the place of one of her female attendants who was beloved by Peredeus, and contrived ſome excuſe for darkneſs and ſilence, till ſhe could inform her companion that he had enjoyed the queen of the Lombards, and that his own death, or the death of Alboin, muſt be the conſequence of ſuch treaſonable adultery. In this alternative, he choſe rather to be the accomplice than the victim of Roſamond[21], whoſe undaunted ſpirit was incapable of fear or remorſe. She expected, and ſoon found a favourable moment, when the king,

[21] The claſſical reader will recollect the wife and murder of Candaules, ſo agreeably told in the firſt book of Herodotus. The choice of Gyges, αιρεεται αυτος περιιναι, may ſerve as the excuſe of Peredeus; and this ſoft inſinuation of an odious idea has been imitated by the beſt writers of antiquity (Grævius, ad Ciceron. Orat. pro Milone, c. 10.).

oppreſſed

oppreſſed with wine, had retired from the table to his afternoon ſlumbers. His faithleſs ſpouſe was anxious for his health and repoſe: the gates of the palace were ſhut, the arms removed, the attendants diſmiſſed, and Roſamond, after lulling him to reſt by her tender careſſes, unbolted the chamber-door, and urged the reluctant conſpirators to the inſtant execution of the deed. On the firſt alarm, the warrior ſtarted from his couch; his ſword, which he attempted to draw, had been faſtened to the ſcabbard by the hand of Roſamond; and a ſmall ſtool, his only weapon, could not long protect him from the ſpears of the aſſaſſins. The daughter of Cunimund ſmiled in his fall; his body was buried under the ſtair-caſe of the palace, and the grateful poſterity of the Lombards revered the tomb and the memory of their victorious leader.

Her flight and death.

The ambitious Roſamond aſpired to reign in the name of her lover; the city and palace of Verona were awed by her power, and a faithful band of her native Gepidæ was prepared to applaud the revenge, and to ſecond the wiſhes, of their ſovereign. But the Lombard chiefs, who fled in the firſt moments of conſternation and diſorder, had reſumed their courage and collected their powers; and the nation, inſtead of ſubmitting to her reign, demanded with unanimous cries, that juſtice ſhould be executed on the guilty ſpouſe and the murderers of their king. She ſought a refuge among the enemies of her country, and a criminal who deſerved the abhorrence of mankind was protected by the ſelfiſh policy of the exarch. With her

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daughter, the heireſs of the Lombard throne, her two lovers, her truſty Gepidæ, and the ſpoils of the palace of Verona, Roſamond deſcended the Adige and the Po, and was tranſported by a Greek veſſel to the ſafe harbour of Ravenna. Longinus beheld with delight the charms and the treaſures of the widow of Alboin: her ſituation and her paſt conduct might juſtify the moſt licentious propoſals; and ſhe readily liſtened to the paſſion of a miniſter, who, even in the decline of the empire, was reſpected as the equal of kings. The death of a jealous lover was an eaſy and grateful ſacrifice, and as Helmichis iſſued from the bath, he received the deadly potion from the hand of his miſtreſs. The taſte of the liquor, its ſpeedy operation, and his experience of the character of Roſamond, convinced him that he was poiſoned: he pointed his dagger to her breaſt, compelled her to drain the remainder of the cup, and expired in a few minutes, with the conſolation, that ſhe could not ſurvive to enjoy the fruits of her wickedneſs. The daughter of Alboin and Roſamond, with the richeſt ſpoils of the Lombards, was embarked for Conſtantinople; the ſurpriſing ſtrength of Peredeus amuſed and terrified the Imperial court: his blindneſs and revenge exhibited an imperfect copy of the adventures of Sampſon. By the free ſuffrage of the nation, in the aſſembly of Pavia, Clepho, one of their nobleſt chiefs, was elected as the ſucceſſor of Alboin. Before the end of eighteen months, the throne was polluted by a ſecond murder; Clepho was ſtabbed by the hand of a domeſtic; the

Clepho, king of the Lombards, A.D. 573, Auguſt.

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the regal office was ſuſpended above ten years, during the minority of his ſon Autharis; and Italy was divided and oppreſſed by a ducal ariſtocracy of thirty tyrants[22].

Weakneſs of the emperor Juſtin.

When the nephew of Juſtinian aſcended the throne, he proclaimed a new æra of happineſs and glory. The annals of the ſecond Juſtin[23] are marked with diſgrace abroad and miſery at home. In the Weſt, the Roman empire was afflicted by the loſs of Italy, the deſolation of Africa, and the conqueſts of the Perſians. Injuſtice prevailed both in the capital and the provinces; the rich trembled for their property, the poor for their ſafety, the ordinary magiſtrates were ignorant or venal, the occaſional remedies appear to have been arbitrary and violent, and the complaints of the people could no longer be ſilenced by the ſplendid names of a legiſlator and a conqueror. The opinion which imputes to the prince all the calamities of his times, may be countenanced by the hiſtorian as a ſerious truth or a ſalutary prejudice. Yet a candid ſuſpicion will ariſe, that the ſentiments of Juſtin were pure and benevolent, and that he might have filled his ſtation without reproach, if the faculties of his mind had not been impaired by diſeaſe, which deprived the emperor of the uſe of

[22] See the hiſtory of Paul, l. ii. c. 28—32. I have borrowed ſome intereſting circumſtances from the Liber Pontificalis of Agnellus, in Script. Rer. Ital. tom. ii. p. 124. Of all chronological guides, Muratori is the ſafeſt.

[23] The original authors for the reign of Juſtin the younger, are Evagrius, Hiſt. Eccleſ. l. v. c. 1—12. Theophanes, in Chronograph. p. 204—210. Zonaras, tom. ii. l. xiv. p. 70—72. Cedrenus, in Compend. p. 388—392.

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his feet, and confined him to the palace, a ſtranger to the complaints of the people and the vices of the government. The tardy knowledge of his own impotence determined him to lay down the weight of the diadem; and in the choice of a worthy ſubſtitute, he ſhewed ſome ſymptoms of a diſcerning and evèn magnanimous ſpirit. The only ſon of Juſtin and Sophia died in his infancy: their daughter Arabia was the wife of Baduarius[24] ſuperintendant of the palace, and afterwards commander of the Italian armies, who vainly aſpired to confirm the rights of marriage by thoſe of adoption. While the empire appeared an object of deſire, Juſtin was accuſtomed to behold with jealouſy and hatred his brothers and couſins, the rivals of his hopes; nor could he depend on the gratitude of thoſe who would accept the purple as a reſtitution, rather than a gift. Of theſe competitors, one had been removed by exile, and afterwards by death; and the emperor himſelf had inflicted ſuch cruel inſults on another, that he muſt either dread his reſentment or deſpiſe his patience. This domeſtic animoſity was refined into a generous reſolution of ſeeking a ſucceſſor, not in his family, but in the republic: and the artful Sophia recommended Tiberius,

24 Diſpoſitorque novus ſacræ Baduarius aulæ.
Succeſſor ſoceri mox factus Cura-pálatî. Corippus.

Baduarius is enumerated among the deſcendants and allies of the houſe of Juſtinian. A family of noble Venetians (Caſa *Badoero*) built churches and gave dukes to the republic as early as the ixth century; and if their deſcent be admitted, no kings in Europe can produce a pedigree ſo ancient and illuſtrious. Ducange, Fam. Byzantin. p. 99. Amelot de la Houſſaye, Gouvernement de Veniſe, tom. ii. p. 555.

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berius[25], his faithful captain of the guards, whoſe virtues and fortune the emperor might cheriſh as the fruit of his judicious choice. The ceremony of his elevation to the rank of Cæſar, or Auguſtus, was performed in the portico of the palace, in the preſence of the patriarch and the ſenate. Juſtin collected the remaining ſtrength of his mind and body, but the popular belief that his ſpeech was inſpired by the Deity, betrays a very humble opinion both of the man and of the times[26]. "You "behold," ſaid the emperor, "the enſigns of ſu- "preme power. You are about to receive them "not from my hand, but from the hand of God. "Honour them, and from them you will derive "honour. Reſpect the empreſs your mother; "you are now her ſon; before, you were her ſer- "vant. Delight not in blood, abſtain from re- "venge, avoid thoſe actions by which I have in- "curred the public hatred, and conſult the expe- "rience rather than the example of your prede- "ceſſor. As a man, I have ſinned; as a ſinner, "even in this life I have been ſeverely puniſhed: "but theſe ſervants (and he pointed to his mini- "ſters), who have abuſed my confidence, and in- "flamed my paſſions, will appear with me before

Aſſociation of Tiberius, A. D. 574, December.

[25] The praiſe beſtowed on princes before their elevation, is the pureſt and moſt weighty. Corippus has celebrated Tiberius at the time of the acceſſion of Juſtin (l. i. 212—222.). Yet even a captain of the guards might attract the flattery of an African exile.

[26] Evagrius (l. v. c. 13.) has added the reproach to his miniſters. He applies this ſpeech to the ceremony when Tiberius was inveſted with the rank of Cæſar. The looſe expreſſion, rather than the poſitive error, of Theophanes, &c. has delayed it to his *Auguſtan* inveſtiture, immediately before the death of Juſtin.

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" the tribunal of Chriſt. I have been dazzled by " the ſplendour of the diadem: be thou wiſe and " modeſt; remember what you have been, re- " member what you are. You ſee around us " your ſlaves and your children; with the autho- " rity, aſſume the tenderneſs, of a parent. Love " your people like yourſelf; cultivate the affec- " tions, maintain the diſcipline of the army: protect " the fortunes of the rich, relieve the neceſſities of " the poor[27]." The aſſembly, in ſilence and in tears, applauded the counſels, and ſympathiſed with the repentance, of their prince: the patriarch rehearſed the prayers of the church; Tiberius received the diadem on his knees, and Juſtin, who in his abdication appeared moſt worthy to reign, addreſſed the new monarch in the following words: " If you conſent, I live; if you command, I die: " may the God of heaven and earth infuſe into " your heart whatever I have neglected or forgot- " ten." The four laſt years of the emperor Juſtin were paſſed in tranquil obſcurity: his conſcience was no longer tormented by the remembrance of thoſe duties which he was incapable of diſcharging; and his choice was juſtified by the filial reverence and gratitude of Tiberius.

Death of Juſtin II. A. D. 578, October 5.

Among the virtues of Tiberius[28], his beauty (he was one of the talleſt and moſt comely of the Romans)

Reign of Tiberius II.

[27] Theophylact Simocatta (l. iii. c. 11.) declares that he ſhall give to poſterity the ſpeech of Juſtin as it was pronounced, without attempting to correct the imperfections of language or rhetoric. Perhaps the vain ſophiſt would have been incapable of producing ſuch ſentiments.

[28] For the character and reign of Tiberius, ſee Evagrius, l. v. c. 13. Theophylact, l. iii. c. 12, &c. Theophanes, in Chron. p. 210

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Romans) might introduce him to the favour of Sophia; and the widow of Juſtin was perſuaded, that ſhe ſhould preſerve her ſtation and influence under the reign of a ſecond and more youthful huſband. But if the ambitious candidate had been tempted to flatter and diſſemble, it was no longer in his power to fulfil her expectations, or his own promiſe. The factions of the hippodrome demanded, with ſome impatience, the name of their new empreſs; both the people and Sophia were aſtoniſhed by the proclamation of Anaſtaſia, the ſecret, though lawful wife of the emperor Tiberius. Whatever could alleviate the diſappointment of Sophia, Imperial honours, a ſtately palace, a numerous houſehold, was liberally beſtowed by the piety of her adopted ſon; on ſolemn occaſions he attended and conſulted the widow of his benefactor: but her ambition diſdained the vain ſemblance of royalty, and the reſpectful appellation of mother ſerved to exaſperate, rather than appeaſe, the rage of an injured woman. While ſhe accepted, and repaid with a courtly ſmile, the fair expreſſions of regard and confidence, a ſecret alliance was concluded between the dowager empreſs and her ancient enemies; and Juſtinian, the ſon of Germanus, was employed as the inſtrument of her revenge. The pride of the reigning houſe ſupported, with reluctance, the dominion of a ſtranger: the youth was deſervedly popular; his name,

A.D. 578, Sept. 26—
A.D. 582, Aug. 14.

p. 210—213. Zonaras, tom. ii. l. xiv. p. 72. Cedrenus, p. 392. Paul Warnefrid, de Geſtis Langobard. l. iii. c. 11, 12. The deacon of Forum Julii appears to have poſſeſſed ſome curious and authentic facts.

after

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after the death of Juſtin, had been mentioned by a tumultuous faction; and his own ſubmiſſive offer of his head, with a treaſure of ſixty thouſand pounds, might be interpreted as an evidence of guilt, or at leaſt of fear. Juſtinian received a free pardon, and the command of the eaſtern army. The Perſian monarch fled before his arms; and the acclamations which accompanied his triumph, declared him worthy of the purple. His artful patroneſs had choſen the month of the vintage, while the emperor, in a rural ſolitude, was permitted to enjoy the pleaſures of a ſubject. On the firſt intelligence of her deſigns he returned to Conſtantinople, and the conſpiracy was ſuppreſſed by his preſence and firmneſs. From the pomp and honours which ſhe had abuſed, Sophia was reduced to a modeſt allowance: Tiberius diſmiſſed her train, intercepted her correſpondence, and committed to a faithful guard the cuſtody of her perſon. But the ſervices of Juſtinian were not conſidered by that excellent prince as an aggravation of his offences: after a mild reproof, his treaſon and ingratitude were forgiven; and it was commonly believed, that the emperor entertained ſome thoughts of contracting a double alliance with the rival of his throne. The voice of an angel (ſuch a fable was propagated) might reveal to the emperor, that he ſhould always triumph over his domeſtic foes; but Tiberius derived a firmer aſſurance from the innocence and generoſity of his own mind.

His virtues.

With the odious name of Tiberius, he aſſumed the more popular appellation of Conſtantine, and

imitated the purer virtues of the Antonines. After recording the vice or folly of ſo many Roman princes, it is pleaſing to repoſe, for a moment, on a character conſpicuous by the qualities of humanity, juſtice, temperance, and fortitude; to contemplate a ſovereign affable in his palace, pious in the church, impartial on the ſeat of judgment, and victorious, at leaſt by his generals, in the Perſian war. The moſt glorious trophy of his victory conſiſted in a multitude of captives, whom Tiberius entertained, redeemed, and diſmiſſed to their native homes with the charitable ſpirit of a Chriſtian hero. The merit or misfortunes of his own ſubjects had a dearer claim to his beneficence, and he meaſured his bounty not ſo much by their expectations, as by his own dignity. This maxim, however dangerous in a truſtee of the public wealth, was balanced by a principle of humanity and juſtice, which taught him to abhor, as of the baſeſt alloy, the gold that was extracted from the tears of the people. For their relief, as often as they had ſuffered by natural or hoſtile calamities, he was impatient to remit the arrears of the paſt, or the demands of future taxes: he ſternly rejected the ſervile offerings of his miniſters, which were compenſated by tenfold oppreſſion; and the wiſe and equitable laws of Tiberius excited the praiſe and regret of ſucceeding times. Conſtantinople believed that the emperor had diſcovered a treaſure: but his genuine treaſure conſiſted in the practice of liberal œconomy, and the contempt of all vain and ſuperfluous expence. The Romans of the Eaſt would have been happy, if the beſt gift of heaven,

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heaven, a patriot king, had been confirmed as a proper and permanent bleſſing. But in leſs than four years after the death of Juſtin, his worthy ſucceſſor ſunk into a mortal diſeaſe, which left him only ſufficient time to reſtore the diadem, according to the tenure by which he held it, to the moſt deſerving of his fellow-citizens. He ſelected Maurice from the crowd, a judgment more precious than the purple itſelf: the patriarch and ſenate were ſummoned to the bed of the dying prince: he beſtowed his daughter and the empire; and his laſt advice was ſolemnly delivered by the voice of the quæſtor. Tiberius expreſſed his hope, that the virtues of his ſon and ſucceſſor would erect the nobleſt mauſoleum to his memory. His memory was embalmed by the public affliction; but the moſt ſincere grief evaporates in the tumult of a new reign, and the eyes and acclamations of mankind were ſpeedily directed to the riſing ſun.

The reign of Maurice, A.D. 582, Aug. 13—A.D. 602, Nov. 27.

The emperor Maurice derived his origin from ancient Rome [29]; but his immediate parents were ſettled at Arabiſſus in Cappadocia, and their ſingular felicity preſerved them alive to behold and partake the fortune of their *auguſt* ſon. The youth of Maurice was ſpent in the profeſſion of arms; Tiberius promoted him to the command of a new and favourite legion of twelve thouſand confede-

[29] It is therefore ſingular enough that Paul (l. iii. c. 15.) ſhould diſtinguiſh him as the firſt Greek emperor—primus ex Græcorum genere in Imperio conſtitutus. His immediate predeceſſors had indeed been born in the Latin provinces of Europe; and a various reading, in Græcorum Imperio, would apply the expreſſion to the empire rather than the prince.

rates;

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rates; his valour and conduct were signalized in the Persian war; and he returned to Constantinople to accept, as his just reward, the inheritance of the empire. Maurice ascended the throne at the mature age of forty-three years; and he reigned above twenty years over the East and over himself[30]; expelling from his mind the wild democracy of passions, and establishing (according to the quaint expression of Evagrius) a perfect aristocracy of reason and virtue. Some suspicion will degrade the testimony of a subject, though he protests that his secret praise should never reach the ear of his sovereign[31], and some failings seem to place the character of Maurice below the purer merit of his predecessor. His cold and reserved demeanour might be imputed to arrogance; his justice was not always exempt from cruelty, nor his clemency from weakness; and his rigid œconomy too often exposed him to the reproach of avarice. But the rational wishes of an absolute monarch must tend to the happiness of his people; Maurice was endowed with sense and courage to promote that happiness, and his administration was directed by the principles and example of Tiberius. The pusillanimity of the Greeks had introduced so complete a

30 Consult, for the character and reign of Maurice, the fifth and sixth books of Evagrius, particularly l. vi. c. 1.; the eight books of his prolix and florid history by Theophylact Simocatta. Theophanes, p. 213, &c. Zonaras, tom. ii. l. xiv. p. 73. Credenus, p. 394.

31 Αυτοκρατωρ οντως γενομενος την μεν οχλοκρατειαν των παθων εκ της οικειας εξεπλατησε ψυχης· αριστοκρατειαν δε εν τοις εαυτω λογισμοις κατασησαμενος. Evagrius composed his history in the twelfth year of Maurice; and he had been so wisely indiscreet, that the emperor knew and rewarded his favourable opinion (l. vi. c. 24.).

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ſeparation between the offices of king and of general, that a private ſoldier who had deſerved and obtained the purple, ſeldom or never appeared at the head of his armies. Yet the emperor Maurice enjoyed the glory of reſtoring the Perſian monarch to his throne: his lieutenants waged a doubtful war againſt the Avars of the Danube, and he caſt an eye of pity, of ineffectual pity, on the abject and diſtreſsful ſtate of his Italian provinces.

Diſtreſs of Italy.

From Italy the emperors were inceſſantly tormented by tales of miſery and demands of ſuccour, which extorted the humiliating confeſſion of their own weakneſs. The expiring dignity of Rome was only marked by the freedom and energy of her complaints: "If you are incapable," ſhe ſaid, "of delivering us from the ſword of the Lombards, ſave us at leaſt from the calamity of "famine." Tiberius forgave the reproach, and relieved the diſtreſs: a ſupply of corn was tranſported from Egypt to the Tyber; and the Roman people, invoking the name, not of Camillus, but of St. Peter, repulſed the Barbarians from their walls. But the relief was accidental, the danger was perpetual and preſſing; and the clergy and ſenate, collecting the remains of their ancient opulence, a ſum of three thouſand pounds of gold, diſpatched the patrician Pamphronius to lay their gifts and their complaints at the foot of the Byzantine throne. The attention of the court, and the forces of the Eaſt, were diverted by the Perſian war: but the juſtice of Tiberius applied the ſubſidy to the defence of the city; and he diſmiſſed the

the patrician with his beſt advice, either to bribe the Lombard chiefs, or to purchaſe the aid of the kings of France. Notwithſtanding this weak invention, Italy was ſtill afflicted, Rome was again beſieged, and the ſuburb of Claſſe, only three miles from Ravenna, was pillaged and occupied by the troops of a ſimple duke of Spoleto. Maurice gave audience to a ſecond deputation of prieſts and ſenators; the duties and the menaces of religion were forcibly urged in the letters of the Roman pontiff; and his nuncio, the deacon Gregory, was alike qualified to ſolicit the powers either of heaven or of the earth. The emperor adopted, with ſtronger effect, the meaſures of his predeceſſor: ſome formidable chiefs were perſuaded to embrace the friendſhip of the Romans; and one of them, a mild and faithful Barbarian, lived and died in the ſervice of the exarch: the paſſes of the Alps were delivered to the Franks; and the pope encouraged them to violate, without ſcruple, their oaths and engagements to the miſbelievers. Childebert, the great-grandſon of Clovis, was perſuaded to invade Italy by the payment of fifty thouſand pieces; but as he had viewed with delight ſome Byzantine coin of the weight of one pound of gold, the king of Auſtraſia might ſtipulate, that the gift ſhould be rendered more worthy of his acceptance, by a proper mixture of theſe reſpectable medals. The dukes of the Lombards had provoked by frequent inroads their powerful neighbours of Gaul. As ſoon as they were apprehenſive of a juſt retaliation, they renounced their feeble and diſorderly independence;

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Autharis, king of the Lombards, A. D. 584–590.

pendence: the advantages of regal government, union, ſecrecy, and vigour, were unanimouſly confeſſed; and Autharis, the ſon of Clepho, had already attained the ſtrength and reputation of a warrior. Under the ſtandard of their new king, the conquerors of Italy withſtood three ſucceſſive invaſions, one of which was led by Childebert himſelf, the laſt of the Merovingian race who deſcended from the Alps. The firſt expedition was defeated by the jealous animoſity of the Franks and Alemanni. In the ſecond they were vanquiſhed in a bloody battle, with more loſs and diſhonour than they had ſuſtained ſince the foundation of their monarchy. Impatient for revenge, they returned a third time with accumulated force, and Autharis yielded to the fury of the torrent. The troops and treaſures of the Lombards were diſtributed in the walled towns between the Alps and the Apennine. A nation, leſs ſenſible of danger, than of fatigue and delay, ſoon murmured againſt the folly of their twenty commanders; and the hot vapours of an Italian ſun infected with diſeaſe thoſe tramontane bodies which had already ſuffered the viciſſitudes of intemperance and famine. The powers that were inadequate to the conqueſt, were more than ſufficient for the deſolation of the country; nor could the trembling natives diſtinguiſh between their enemies and their deliverers. If the junction of the Merovingian and Imperial forces had been effected in the neighbourhood of Milan, perhaps they might have ſubverted the throne of the Lombards; but the Franks expected ſix days the ſignal

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of a flaming village, and the arms of the Greeks were idly employed in the reduction of Modena and Parma, which were torn from them after the retreat of their Tranſalpine allies. The victorious Autharis aſſerted his claim to the dominion of Italy. At the foot of the Rhætian Alps, he ſubdued the reſiſtance, and rifled the hidden treaſures, of a ſequeſtered iſland in the lake of Comum. At the extreme point of Calabria, he touched with his ſpear a column on the ſea-ſhore of Rhegium [32], proclaiming that ancient land-mark to ſtand the immoveable boundary of his kingdom [33].

The exarchate of Ravenna.

During a period of two hundred years, Italy was unequally divided between the kingdom of the Lombards and the exarchate of Ravenna. The offices and profeſſions, which the jealouſy of Conſtantine had ſeparated, were united by the indulgence of Juſtinian; and eighteen ſucceſſive exarchs were inveſted, in the decline of the empire, with the full remains of civil, of military, and even of eccleſiaſtical power. Their immediate juriſdiction, which was afterwards conſecrated as the patrimony of St. Peter, extended

32 The Columna Rhegina, in the narroweſt part of the Faro of Meſſina, one hundred ſtadia from Rhegium itſelf, is frequently mentioned in ancient geography. Cluver. Ital. Antiq. tom. ii. p. 1295. Lucas Holſtein. Annotat. ad Cluver. p. 301. Weſſeling, Itinerar. p. 106.

33 The Greek hiſtorians afford ſome faint hints of the wars of Italy (Menander, in Excerpt. Legat. p. 124. 126. Theophylact, l. iii. c. 4.). The Latins are more ſatisfactory; and eſpecialy Paul Warnefrid (l. iii. c. 13—34.), who had read the more ancient hiſtories of Secundus and Gregory of Tours. Baronius produces ſome letters of the popes, &c.; and the times are meaſured by the accurate ſcale of Pagi and Muratori.

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over the modern Romagna, the marſhes or vallies of Ferrara and Commachio [34], five maritime cities from Rimini to Ancona, and a ſecond, inland Pentapolis, between the Adriatic coaſt and the hills of the Apennine. Three ſubordinate provinces, of Rome, of Venice, and of Naples, which were divided by hoſtile lands from the palace of Ravenna, acknowledged, both in peace and war, the ſupremacy of the exarch. The dutchy of Rome appears to have included the Tuſcan, Sabine, and Latian conqueſts, of the firſt four hundred years of the city, and the limits may be diſtinctly traced along the coaſt, from Civita Vecchia, to Terracina, and with the courſe of the Tyber from Ameria and Narni to the port of Oſtia. The numerous iſlands from Grado to Chiozza, compoſed the infant dominion of Venice; but the more acceſſible towns on the continent were overthrown by the Lombards, who beheld with impotent fury a new capital riſing from the waves. The power of the dukes of Naples was circumſcribed by the bay and the adjacent iſles, by the hoſtile territory of Capua, and by the Roman colony of Amalphi [35], whoſe induſtrious citizens, by the invention of the mariner's compaſs, have unveiled the face of the globe. The three iſlands

34 The papal advocates, Zacagni and Fontanini, might juſtly claim the valley or moraſs of Commachio as a part of the exarchate. But the ambition of including Modena, Reggio, Parma, and Placentia, has darkened a geographical queſtion ſomewhat doubtful and obſcure. Even Muratori, as the ſervant of the houſe of Eſte, is not free from partiality and prejudice.

35 See Brencmann, Diſſert. 1ma de Republica Amalphitanâ, p. 1—42. ad calcem Hiſt. Pandect. Florent.

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of Sardinia, Corſica, and Sicily, ſtill adhered to the empire; and the acquiſition of the farther Calabria removed the land-mark of Autharis from the ſhore of Rhegium to the iſthmus of Conſentia. In Sardinia, the ſavage mountaineers preſerved the liberty and religion of their anceſtors; but the huſbandmen of Sicily were chained to their rich and cultivated ſoil. Rome was oppreſſed by the iron ſceptre of the exarchs, and a Greek, perhaps an eunuch, inſulted with impunity the ruins of the Capitol. But Naples ſoon acquired the privilege of electing her own dukes [36]; the independence of Amalphi was the fruit of commerce; and the voluntary attachment of Venice was finally ennobled by an equal alliance with the eaſtern empire. On the map of Italy, the meaſure of the exarchate occupies a very inadequate ſpace, but it included an ample proportion of wealth, induſtry and population. The moſt faithful and valuable ſubjects eſcaped from the Barbarian yoke; and the banners of Pavia and Verona, of Milan and Padua, were diſplayed in their reſpective quarters by the new inhabitants of Ravenna. The remainder of Italy was poſſeſſed by the Lombards; and from Pavia, the royal ſeat, their kingdom was extended to the eaſt, the north, and the weſt, as far as the confines of the Avars, the Bavarians, and the Franks of Auſtraſia and Burgundy. In the language of modern geography, it is now repreſented by the Terra Firma of the Venetian republic, Tirol, the Milaneſe, Piemont, the coaſt of Genoa, Mantua,

The kingdom of the Lombards.

[36] Gregor. Magn. l. iii. epiſt. 23. 25, 26, 27.

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Parma, and Modena, the grand dutchy of Tuſcany, and a large portion of the eccleſiaſtical ſtate from Perugia to the Adriatic. The dukes, and at length the princes of Beneventum, ſurvived the monarchy, and propagated the name of the Lombards. From Capua to Tarentum, they reigned near five hundred years over the greateſt part of the preſent kingdom of Naples [37].

Language and manners of the Lombards.

In comparing the proportion of the victorious and the vanquiſhed people, the change of language will afford the moſt probable inference. According to this ſtandard it will appear, that the Lombards of Italy, and the Viſigoths of Spain, were leſs numerous than the Franks or Burgundians; and the conquerors of Gaul muſt yield, in their turn, to the multitude of Saxons and Angles who almoſt eradicated the idioms of Britain. The modern Italian has been inſenſibly formed by the mixture of nations; the awkwardneſs of the Barbarians in the nice management of declenſions and conjugations, reduced them to the uſe of articles and auxiliary verbs; and many new ideas have been expreſſed by Teutonic appellations. Yet the principal ſtock of technical and familiar words is found to be of Latin derivation [38]; and if we were

37 I have deſcribed the ſtate of Italy from the excellent Diſſertation of Beretti. Giannone (Iſtoria Civile, tom. i. p. 374—387.) has followed the learned Camillo Pellegrini in the geography of the kingdom of Naples. After the loſs of the true Calabria, the vanity of the Greeks ſubſtituted that name inſtead of the more ignoble appellation of Bruttium; and the change appears to have taken place before the time of Charlemagne (Eginard, p. 75.).

38 Maffei (Verona Illuſtrata, part i. p. 310—321.) and Muratori (Antichita Italiane, tom. ii. Diſſertazione xxxii, xxxiii. p. 71—365.

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were ſufficiently converſant with the obſolete, the ruſtic, and the municipal dialects of ancient Italy, we ſhould trace the origin of many terms which might, perhaps, be rejected by the claſſic purity of Rome. A numerous army conſtitutes but a ſmall nation, and the powers of the Lombards were ſoon diminiſhed by the retreat of twenty thouſand Saxons, who ſcorned a dependent ſituation, and returned, after many bold and perilous adventures, to their native country [39]. The camp of Alboin was of formidable extent, but the extent of a camp would be eaſily circumſcribed within the limits of a city; and its martial inhabitants muſt be thinly ſcattered over the face of a large country. When Alboin deſcended from the Alps, he inveſted his nephew, the firſt duke of Friuli, with the command of the province and the people; but the prudent Giſulf would have declined the dangerous office, unleſs he had been permitted to chuſe, among the nobles of the Lombards, a ſufficient number of families [40] to form a perpetual colony of ſoldiers and ſubjects. In the progreſs of conqueſt, the ſame option could not be granted to the dukes of Breſcia or Bergamo, of Pavia or Turin, of Spoleto or Beneventum; but each of theſe, and each of their colleagues, ſettled in his appointed diſtrict

365.) have aſſerted the native claims of the Italian idiom: the former with enthuſiaſm, the latter with diſcretion: both with learning, ingenuity, and truth.

39 Paul, de Geſt. Langobard. l. iii. c. 5, 6, 7.

40 Paul, l. ii. c. 9. He calls theſe families or generations by the Teutonic name of *Faras*, which is likewiſe uſed in the Lombard laws. The humble deacon was not inſenſible of the nobility of his own race. See l. iv. c. 39.

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with a band of followers who reſorted to his ſtandard in war and his tribunal in peace. Their attachment was free and honourable: reſigning the gifts and benefits which they had accepted, they might emigrate with their families into the juriſdiction of another duke; but their abſence from the kingdom was puniſhed with death, as a crime of military deſertion [41]. The poſterity of the firſt conquerors ſtruck a deeper root into the ſoil, which, by every motive of intereſt and honour, they were bound to defend. A Lombard was born the ſoldier of his king and his duke; and the civil aſſemblies of the nation diſplayed the banners, and aſſumed the appellation, of a regular army. Of this army, the pay and the rewards were drawn from the conquered provinces; and the diſtribution, which was not effected till after the death of Alboin, is diſgraced by the foul marks of injuſtice and rapine. Many of the moſt wealthy Italians were ſlain or baniſhed; the remainder were divided among the ſtrangers, and a tributary obligation was impoſed (under the name of hoſpitality), of paying to the Lombards a third part of the fruits of the earth. Within leſs than ſeventy years, this artificial ſyſtem was aboliſhed by a more ſimple and ſolid tenure [42]. Either the Roman landlord was expelled by his ſtrong and inſolent gueſt; or the annual payment, a third of the

[41] Compare N° 3 and 177 of the laws of Rotharis.

[42] Paul, l. ii. c. 31, 32. l. iii. c. 16. The laws of Rotharis, promulgated A. D. 643, do not contain the ſmalleſt veſtige of this payment of thirds; but they preſerve many curious circumſtances of the ſtate of Italy and the manners of the Lombards.

produce,

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produce, was exchanged by a more equitable tranſaction for an adequate proportion of landed property. Under theſe foreign maſters, the buſineſs of agriculture, in the cultivation of corn, vines, and olives, was exerciſed with degenerate ſkill and induſtry by the labour of the ſlaves and natives. But the occupations of a paſtoral life were more pleaſing to the idleneſs of the Barbarians. In the rich meadows of Venetia, they reſtored and improved the breed of horſes for which that province had once been illuſtrious [43]; and the Italians beheld with aſtoniſhment a foreign race of oxen or buffaloes [44]. The depopulation of Lombardy, and the increaſe of foreſts, afforded an ample range for the pleaſures of the chaſe [45]. That marvellous art which teaches the birds of the air to acknowledge the voice, and execute the commands of

43 The ſtuds of Dionyſius of Syracuſe, and his frequent victories in the Olympic games, had diffuſed among the Greeks the fame of the Venetian horſes; but the breed was extinct in the time of Strabo (l. v. p. 325.). Giſulf obtained from his uncle generoſarum equarum greges. Paul, l. ii. c. 9. The Lombards afterwards introduced caballi ſylvatici—wild horſes. Paul, l. iv. c. 11.

44 Tunc (A. D. 596) primum, *bubali* in Italiam delati Italiæ populis miracula fuere (Paul Warnefrid, l. iv. c. 11.). The buffaloes, whoſe native climate appears to be Africa and India, are unknown to Europe, except in Italy, where they are numerous and uſeful. The ancients were ignorant of theſe animals, unleſs Ariſtotle (Hiſt. Animal. l. ii. c. 1. p. 58. Paris, 1783) has deſcribed them as the wild oxen of Arachoſia. See Buffon, Hiſt. Naturelle, tom. xi. and Supplement, tom. vi. Hiſt. Generale des Voyages, tom. i. p. 7. 481. ii. 105. iii. 291. iv. 234. 461. v. 193. vi. 491. viii. 400. x. 656. Pennant's Quadrupedes, p. 24. Dictionaire d'Hiſt. Naturelle, par Valmont de Romare, tom. ii. p. 74. Yet I muſt not conceal the ſuſpicion that Paul, by a vulgar error, may have applied the name of *bubalus* to the aurochs, or wild bull, of ancient Germany.

45 Conſult the xxi[st] Diſſertation of Muratori.

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their maſter, had been unknown to the ingenuity of the Greeks and Romans [46]. Scandinavia and Scythia produce the boldeſt and moſt tractable falcons [47]; they were tamed and educated by the roving inhabitants always on horſeback and in the field. This favourite amuſement of our anceſtors was introduced by the Barbarians into the Roman provinces; and the laws of Italy eſteem the ſword and the hawk as of equal dignity and importance in the hands of a noble Lombard [48].

Dreſs and marriage.

So rapid was the influence of climate and example, that the Lombards of the fourth generation ſurveyed with curioſity and affright the portraits of their ſavage forefathers [49]. Their heads were ſhaven

46 Their ignorance is proved by the ſilence even of thoſe who profeſſedly treat of the arts of hunting and the hiſtory of animals. Ariſtotle (Hiſt. Animal. l. ix. c. 36. tom. i. p. 586. and the Notes of his laſt editor, M. Camus, tom. ii. p. 314.), Pliny (Hiſt. Natur. l. x. c. 10), Ælian (de Natur. Animal. l. ii. c. 42.), and perhaps Homer (Odyſſ. xxii. 302—306.), deſcribe with aſtoniſhment a tacit league and common chaſe between the hawks and the Thracian fowlers.

47 Particularly the gerfaut, or gyrfalcon, of the ſize of a ſmall eagle. See the animated deſcription of M. de Buffon, Hiſt. Naturelle, tom. xvi. p. 239, &c.

48 Script. Rerum Italicarum, tom. i. part ii. p. 129. This is the xvi^th law of the emperor Lewis the Pious. His father Charlemagne had falconers in his houſehold as well as huntſmen (Memoirs ſur l'ancienne Chevalerie, par M. de St. Palaye, tom. iii. p. 175.). I obſerve in the laws of Rotharis a more early mention of the art of hawking (N° 322.); and in Gaul, in the v^th century, it is celebrated by Sidonius Apollinaris among the talents of Avitus (202—207.).

49 The epitaph of Droctulf (Paul, l. iii. c. 19.) may be applied to many of his countrymen:

Terribilis viſu facies, ſed corda benignus
Longaque robuſto pectore barba fuit.

The portraits of the old Lombards might ſtill be ſeen in the palace of Monza,

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ſhaven behind, but the ſhaggy locks hung over their eyes and mouth, and a long beard, repreſented the name and character of the nation. Their dreſs conſiſted of looſe linen garments, after the faſhion of the Anglo-Saxons, which were decorated, in their opinion, with broad ſtripes of variegated colours. The legs and feet were clothed in long hoſe, and open ſandals; and even in the ſecurity of peace, a truſty ſword was conſtantly girt to their ſide. Yet this ſtrange apparel, and horrid aſpect, often concealed a gentle and generous diſpoſition; and as ſoon as the rage of battle had ſubſided, the captives and ſubjects were ſometimes ſurpriſed by the humanity of the victor. The vices of the Lombards were the effect of paſſion, of ignorance, of intoxication: their virtues are the more laudable, as they were not affected by the hypocriſy of ſocial manners, nor impoſed by the rigid conſtraint of laws and education. I ſhould not be apprehenſive of deviating from my ſubject, if it were in my power to delineate the private life of the conquerors of Italy, and I ſhall relate with pleaſure the adventurous gallantry of Autharis, which breathes the true ſpirit of chivalry and romance [50]. After the loſs of his promiſed bride, a Merovingian princeſs, he ſought in marriage the daughter of the king of Bavaria; and Garibald

Monza, twelve miles from Milan, which had been founded or reſtored by queen Theudelinda (l. iv. 22, 23.). See Muratori, tom. i. diſſertaz. xxiii. p. 300.

[50] The ſtory of Autharis and Theudelinda is related by Paul, l. iii. c. 29. 34.; and any fragment of Bavarian antiquity excites the indefatigable diligence of the count de Buat, Hiſt. des Peuples de l'Europe, tom. xi. p. 595—635. tom. xii. p. 1—53.

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accepted the alliance of the Italian monarch. Impatient of the ſlow progreſs of negotiation, the ardent lover eſcaped from his palace, and viſited the court of Bavaria in the train of his own embaſſy. At the public audience, the unknown ſtranger advanced to the throne, and informed Garibald, that the ambaſſador was indeed the miniſter of ſtate, but that he alone was the friend of Autharis, who had truſted him with the delicate commiſſion of making a faithful report of the charms of his ſpouſe. Theudelinda was ſummoned to undergo this important examination, and after a pauſe of ſilent rapture, he hailed her as the queen of Italy, and humbly requeſted, that, according to the cuſtom of the nation, ſhe would preſent a cup of wine to the firſt of her new ſubjects. By the command of her father, ſhe obeyed: Autharis received the cup in his turn, and, in reſtoring it to the princeſs, he ſecretly touched her hand, and drew his own finger over his face and lips. In the evening, Theudelinda imparted to her nurſe the indiſcreet familiarity of the ſtranger, and was comforted by the aſſurance, that ſuch boldneſs could proceed only from the king her huſband, who, by his beauty and courage, appeared worthy of her love. The ambaſſadors were diſmiſſed: no ſooner did they reach the confines of Italy, than Autharis, raiſing himſelf on his horſe, darted his battle-axe againſt a tree with incomparable ſtrength and dexterity: "Such," ſaid he to the aſtoniſhed Bavarians, "ſuch are the ſtrokes of the king of the "Lombards." On the approach of a French army, Garibald and his daughter took refuge in the

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dominions of their ally; and the marriage was conſummated in the palace of Verona. At the end of one year, it was diſſolved by the death of Autharis: but the virtues of Theudelinda [51] had endeared her to the nation, and ſhe was permitted to beſtow, with her hand, the ſceptre of the Italian kingdom.

Government.

From this fact, as well as from ſimilar events [52], it is certain that the Lombards poſſeſſed freedom to elect their ſovereign, and ſenſe to decline the frequent uſe of that dangerous privilege. The public revenue aroſe from the produce of land, and the profits of juſtice. When the independent dukes agreed that Autharis ſhould aſcend the throne of his father, they endowed the regal office with a fair moiety of their reſpective domains. The proudeſt nobles aſpired to the honours of ſervitude near the perſon of their prince: he rewarded the fidelity of his vaſſals by the precarious gift of penſions and *benefices*; and atoned for the injuries of war, by the rich foundation of monaſteries and churches. In peace a judge, a leader in war, he never uſurped the powers of a ſole and abſolute legiſlator. The king of Italy convened the national aſſemblies in the palace, or more probably in the fields, of Pavia: his great council was compoſed of the perſons moſt eminent by their birth and dignities; but the validity, as well as the exe-

[51] Giannone (Iſtoria Civile de Napoli, tom. i. p. 263.) has juſtly cenſured the impertinence of Boccaccio (Gio. iii. Novel. 2.), who, without right, or truth, or pretence, has given the pious queen Theudelinda to the arms of a muleteer.

[52] Paul, l. iii. c. 16. The firſt diſſertations of Muratori, and the firſt volume of Giannone's hiſtory, may be conſulted for the ſtate of the kingdom of Italy.

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cution of their decrees, depended on the approbation of the *faithful* people, the *fortunate* army of the Lombards. About fourſcore years after the conqueſt of Italy, their traditional cuſtoms were tranſcribed in Teutonic Latin [53], and ratified by the conſent of the prince and people; ſome new regulations were introduced, more ſuitable to their preſent condition; the example of Rotharis was imitated by the wiſeſt of his ſucceſſors, and the laws of the Lombards have been eſteemed the leaſt imperfect of the Barbaric codes [54]. Secure by their courage in the poſſeſſion of liberty, theſe rude and haſty legiſlators were incapable of balancing the powers of the conſtitution, or of diſcuſſing the nice theory of political government. Such crimes as threatened the life of the ſovereign, or the ſafety of the ſtate, were adjudged worthy of death; but their attention was principally confined to the defence of the perſon and property of the ſubject. According to the ſtrange juriſprudence of the times, the guilt of blood might be redeemed by a fine; yet the high price of nine hundred pieces of gold declares a juſt ſenſe of the value of a ſimple citizen. Leſs atrocious injuries, a wound, a fracture, a blow, an opprobrious word, were meaſured with ſcrupulous and almoſt ridiculous diligence; and the prudence of the legiſlator encouraged the ignoble practice of

Laws, A.D. 643, &c.

53 The moſt accurate edition of the laws of the Lombards is to be found in the Scriptores Rerum Italicarum, tom. i. part ii. p. 1—181, collated from the moſt ancient MSS. and illuſtrated by the critical notes of Muratori.

54 Monteſquieu, Eſprit des Loix, l. xxviii. c. 1. Les loix des Bourguignons ſont aſſez judicieuſes: celles de Rotharis et des autres princes Lombards le ſont encore plus.

bartering honour and revenge for a pecuniary compenſation. The ignorance of the Lombards, in the ſtate of Paganiſm or Chriſtianity, gave implicit credit to the malice and miſchief of witchcraft; but the judges of the ſeventeenth century might have been inſtructed and confounded by the wiſdom of Rotharis, who derides the abſurd ſuperſtition, and protects the wretched victims of popular or judicial cruelty [55]. The ſame ſpirit of a legiſlator, ſuperior to his age and country, may be aſcribed to Luitprand, who condemns, while he tolerates, the impious and inveterate abuſe of duels [56], obſerving from his own experience, that the juſter cauſe had often been oppreſſed by ſucceſsful violence. Whatever merit may be diſcovered in the laws of the Lombards, they are the genuine fruit of the reaſon of the Barbarians, who never admitted the biſhops of Italy to a ſeat in their legiſlative councils. But the ſucceſſion of their kings is marked with virtue and ability; the troubled ſeries of their annals is adorned with fair intervals of peace, order, and domeſtic happineſs; and the Italians enjoyed a milder and more equitable government, than any

55 See Leges Rotharis, N° 379. p. 47. Striga is uſed as the name of a witch. It is of the pureſt claſſic origin (Horat. epod. v. 20. Petron. c. 134.); and, from the words of Petronius, (quæ ſtriges comederunt nervos tuos?) it may be inferred that the prejudice was of Italian rather than Barbaric extraction.

56 Quia incerte ſumus de judicio Dei, et multos audivimus per pugnam ſine juſtâ cauſâ ſuam cauſam perdere. Sed propter conſuetudinem gentem noſtram Langobardorum legem impiam vetare non poſſumus. See p. 74. N° 65. of the Laws of Luitprand, promulgated A. D. 724.

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of the other kingdoms which had been founded on the ruins of the Weſtern empire [57].

Miſery of Rome.

Amidſt the arms of the Lombards, and under the deſpotiſm of the Greeks, we again inquire into the fate of Rome [58], which had reached, about the cloſe of the ſixth century, the loweſt period of her depreſſion. By the removal of the ſeat of empire, and the ſucceſſive loſs of the provinces; the ſources of public and private opulence were exhauſted; the lofty tree, under whoſe ſhade the nations of the earth had repoſed, was deprived of its leaves and branches, and the ſapleſs trunk was left to wither on the ground. The miniſters of command, and the meſſengers of victory, no longer met on the Appian or Flaminian way; and the hoſtile approach of the Lombards was often felt and continually feared. The inhabitants of a potent and peaceful capital, who viſit without an anxious thought the garden of the adjacent country, will faintly picture in their fancy the diſtreſs of the Romans: they ſhut or opened their gates with a trembling hand, beheld from the walls the flames of their houſes, and heard the lamentations of their brethren, who were coupled together like dogs, and dragged away into diſtant ſlavery beyond the ſea and the moun-

57 Read the hiſtory of Paul Warnefrid; particularly l. iii. c. 16. Baronius rejects the praiſe, which appears to contradict the invectives, of pope Gregory the Great; but Muratori (Annali d'Italia, tom. v. p. 217.) preſumes to inſinuate that the ſaint may have magnified the faults of Arians and enemies.

58 The paſſages of the homilies of Gregory, which repreſent the miſerable ſtate of the city and country, are tranſcribed in the Annals of Baronius, A. D. 590, N° 16, A. D. 595, N° 2, &c. &c.

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tains. Such inceſſant alarms muſt annihilate the pleaſures and interrupt the labours of a rural life; and the Campagna of Rome was ſpeedily reduced to the ſtate of a dreary wilderneſs, in which the land is barren, the waters are impure, and the air is infectious. Curioſity and ambition no longer attracted the nations to the capital of the world: but if chance or neceſſity directed the ſteps of a wandering ſtranger, he contemplated with horror the vacancy and ſolitude of the city, and might be tempted to aſk, where is the ſenate, and where are the people? In a ſeaſon of exceſſive rains, the Tyber ſwelled above its banks, and ruſhed with irreſiſtible violence into the vallies of the ſeven hills. A peſtilential diſeaſe aroſe from the ſtagnation of the deluge, and ſo rapid was the contagion, that fourſcore perſons expired in an hour in the midſt of a ſolemn proceſſion, which implored the mercy of heaven [59]. A ſociety in which marriage is encouraged and induſtry prevails, ſoon repairs the accidental loſſes of peſtilence and war: but as the far greater part of the Romans was condemned to hopeleſs indigence and celibacy, the depopulation was conſtant and viſible, and the gloomy enthuſiaſts might expect the approaching failure of the human race [60]. Yet the number of citizens ſtill exceeded the

59 The inundation and plague were reported by a deacon, whom his biſhop, Gregory of Tours, had diſpatched to Rome for ſome relics. The ingenious meſſenger embelliſhed his tale and the river with a great dragon and a train of little ſerpents (Greg. Turon. l. x. c. 1.).

60 Gregory of Rome (Dialog. l. ii. c. 15.) relates a memorable prediction of St. Benedict. Roma a Gentilibus non exterminabitur ſed tempeſtatibus, coruſcis turbinibus ac terræ motû in ſemetipſa mar-

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the meaſure of ſubſiſtence: their precarious food was ſupplied from the harveſts of Sicily or Egypt; and the frequent repetition of famine betrays the inattention of the emperor to a diſtant province. The edifices of Rome were expoſed to the ſame ruin and decay: the mouldering fabrics were eaſily overthrown by inundations, tempeſts, and earthquakes, and the monks who had occupied the moſt advantageous ſtations, exulted in their baſe triumph over the ruins of antiquity[61]. It is commonly believed, that pope Gregory the firſt attacked the temples and mutilated the ſtatues of the city; that, by the command of the Barbarian, the Palatine library was reduced to aſhes, and that the hiſtory of Livy was the peculiar mark of his abſurd and miſchievous fanaticiſm. The writings of Gregory himſelf reveal his implacable averſion to the monuments of claſſic genius; and he points his ſevereſt cenſure againſt the profane learning of a biſhop, who taught the art of grammar, ſtudied the Latin poets, and pronounced with the ſame voice the praiſes of Jupiter and thoſe of Chriſt. But the evidence of his deſtructive rage is doubtful and recent: the Temple of Peace, or the theatre of Marcellus, have been demoliſhed by the ſlow operation of ages, and a formal proſcription would have multiplied the copies of Virgil and Livy in

marceſcet. Such a prophecy melts into true hiſtory, and becomes the evidence of the fact after which it was invented.

61 Quia in uno ſe ore cum Jovis laudibus, Chriſti laudes non capiunt, et quam grave nefandumque ſit epiſcopis canere quod nec laico religioſo conveniat, ipſe conſidera (l. ix. ep. 4.). The writings of Gregory himſelf atteſt his innocence of any claſſic taſte or literature.

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the countries which were not ſubject to the eccleſiaſtical dictator[62].

The tombs and relics of the apoſtles.

Like Thebes, or Babylon, or Carthage, the name of Rome might have been erazed from the earth; if the city had not been animated by a vital principle, which again reſtored her to honour and dominion. A vague tradition was embraced, that two Jewiſh teachers, a tent-maker, and a fiſherman, had formerly been executed in the circus of Nero, and at the end of five hundred years their genuine or fictitious relics were adored as the Palladium of Chriſtian Rome. The pilgrims of the Eaſt and Weſt reſorted to the holy threſhold; but the ſhrines of the apoſtles were guarded by miracles and inviſible terrors; and it was not without fear that the pious Catholic approached the object of his worſhip. It was fatal to touch, it was dangerous to behold, the bodies of the ſaints; and thoſe who from the pureſt motives preſumed to diſturb the repoſe of the ſanctuary, were affrighted by viſions, or puniſhed with ſudden death. The unreaſonable requeſt of an empreſs, who wiſhed to deprive the Romans of their ſacred treaſure, the head of St. Paul, was rejected with the deepeſt abhorrence; and the pope aſſerted, moſt probably with truth, that a linen which had been ſanctified in the neighbourhood of his body, or the filings of his chain, which it was

[62] Bayle (Dictionaire Critique, tom. ii. p. 598, 599.), in a very good article of *Gregoire* I. has quoted, for the buildings and ſtatues, Platina in Gregorio I.; for the Palatine library, John of Saliſbury (de Nugis Curialium, l. ii. c. 26.); and for Livy, Antoninus of Florence: the oldeſt of the three lived in the xiiith century.

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ſometimes eaſy and ſometimes impoſſible to obtain, poſſeſſed an equal degree of miraculous virtue [63]. But the power as well as virtue of the apoſtles reſided with living energy in the breaſt of their ſucceſſors; and the chair of St. Peter was filled under the reign of Maurice by the firſt and greateſt of the name of Gregory [64]. His grandfather Felix had himſelf been pope, and as the biſhops were already bound by the law of celibacy, his conſecration muſt have been preceded by the death of his wife. The parents of Gregory, Sylvia, and Gordian, were the nobleſt of the ſenate and the moſt pious of the church of Rome; his female relations were numbered among the ſaints and virgins; and his own figure with thoſe of his father and mother were repreſented near three hundred years in a family portrait [65], which he offered to the monaſtery of St. Andrew.

Birth and profeſſion of Gregory the Roman.

63 Gregor. l. iii. epiſt. 24. indict. 12, &c. From the epiſtles of Gregory, and the viiith volume of the Annals of Baronius, the pious reader may collect the particles of holy iron which were inſerted in keys or croſſes of gold, and diſtributed in Britain, Gaul, Spain, Africa, Conſtantinople, and Egypt. The pontifical ſmith who handled the file muſt have underſtood the miracles which it was in his own power to operate or with-hold: a circumſtance which abates the ſuperſtition of Gregory, at the expence of his veracity.

64 Beſides the Epiſtles of Gregory himſelf, which are methodiſed by Dupin (Bibliothêque Eccleſ. tom. v. p. 103—126.), we have three lives of the pope; the two firſt written in the viiith and ixth centuries (de Triplici Vita St. Greg. Preface to the ivth volume of the Benedictine edition) by the deacons Paul (p. 1—18.) and John (p. 19—188.), and containing much original, though doubtful, evidence; the third, a long and laboured compilation by the Benedictine editors (p. 199—305.). The Annals of Baronius are a copious but partial hiſtory. His papal prejudices are tempered by the good ſenſe of Fleury (Hiſt. Eccleſ. tom. viii.), and his chronology has been rectified by the criticiſm of Pagi and Muratori.

65 John the deacon has deſcribed them like an eye-witneſs (l. iv. c. 83, 84.); and his deſcription is illuſtrated by Angelo Rocca, a Roman

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Andrew. The deſign and colouring of this picture afford an honourable teſtimony, that the art of painting was cultivated by the Italians of the ſixth century; but the moſt abject ideas muſt be entertained of their taſte and learning, ſince the epiſtles of Gregory, his ſermons, and his dialogues, are the work of a man who was ſecond in erudition to none of his contemporaries [66]: his birth and abilities had raiſed him to the office of præfect of the city, and he enjoyed the merit of renouncing the pomp and vanities of this world. His ample patrimony was dedicated to the foundation of ſeven monaſteries [67], one in Rome [68], and ſix in Sicily; and it was the wiſh of Gregory that he might be unknown in this

Roman antiquary (St. Greg. Opera, tom. iv. p. 312—326.), who obſerves, that ſome moſaics of the popes of the viith century are ſtill preſerved in the old churches of Rome (p. 321—323.). The ſame walls which repreſented Gregory's family are now decorated with the martyrdom of St. Andrew, the noble conteſt of Dominichino and Guido.

66 Diſciplinis vero liberalibus, hoc eſt grammaticâ, rhetoricâ, dialecticâ, ita a puero eſt inſtitutus, ut quamvis eo tempore florerent adhuc Romæ ſtudia literarum, tamen nulli in urbe ipſâ ſecundus putaretur. Paul. Diacon. in Vit. S. Greg. c. 2.

67 The Benedictines (Vit. Greg. l. i. p. 205—208.) labour to reduce the monaſteries of Gregory within the rule of their own order; but as the queſtion is confeſſed to be doubtful, it is clear that theſe powerful monks are in the wrong. See Butler's Lives of the Saints, vol. iii. p. 145.; a work of merit; the ſenſe and learning belong to the author—his prejudices are thoſe of his profeſſion.

68 Monaſterium Gregorianum in ejuſdem Beati Gregorii ædibus ad clivum Scauri prope eccleſiam S. S. Johannis et Pauli in honorem St. Andreæ (John, in Vit. Greg. l. i. c. 6. Greg. l. vii. epiſt. 13.). This houſe and monaſtery were ſituate on the ſide of the Cælian hill which fronts the Palatine; they are now occupied by the Camaldoli; San Gregorio triumphs, and St. Andrew has retired to a ſmall chapel. Nardini, Roma Antica, l. iii. c. 6. p. 100. Deſcrizzione di Roma, tom. i. p. 442—446.

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life, and glorious only in the next. Yet his devotion, and it might be ſincere, purſued the path which would have been choſen by a crafty and ambitious ſtateſman. The talents of Gregory, and the ſplendour which accompanied his retreat, rendered him dear and uſeful to the church; and implicit obedience has been always inculcated as the firſt duty of a monk. As ſoon as he had received the character of deacon, Gregory was ſent to reſide at the Byzantine court, the nuncio or miniſter of the apoſtolic ſee; and he boldly aſſumed, in the name of St. Peter, a tone of independent dignity, which would have been criminal and dangerous in the moſt illuſtrious layman of the empire. He returned to Rome with a juſt increaſe of reputation, and after a ſhort exerciſe of the monaſtic virtues, he was dragged from the cloyſter to the papal throne, by the unanimous voice of the clergy, the ſenate, and the people. He alone reſiſted, or ſeemed to reſiſt, his own elevation; and his humble petition, that Maurice would be pleaſed to reject the choice of the Romans, could only ſerve to exalt his character in the eyes of the emperor and the public. When the fatal mandate was proclaimed, Gregory ſolicited the aid of ſome friendly merchants to convey him in a baſket beyond the gates of Rome, and modeſtly concealed himſelf ſome days among the woods and mountains, till his retreat was diſcovered, as it is ſaid, by a celeſtial light.

Pontificate of Gregory the Great,

The pontificate of Gregory the *Great*, which laſted thirteen years ſix months and ten days, is one of

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of the moſt edifying periods of the hiſtory of the church. His virtues, and even his faults, a ſingular mixture of ſimplicity and cunning, of pride and humility, of ſenſe and ſuperſtition, were happily ſuited to his ſtation and to the temper of the times. In his rival, the patriarch of Conſtantinople, he condemned the Anti-chriſtian title of univerſal biſhop, which the ſucceſſor of St. Peter was too haughty to concede, and too feeble to aſſume; and the eccleſiaſtical juriſdiction of Gregory was confined to the triple character of biſhop of Rome, primate of Italy, and apoſtle of the Weſt. He frequently aſcended the pulpit, and kindled, by his rude though pathetic eloquence, the congenial paſſions of his audience: the language of the Jewiſh prophets was interpreted and applied, and the minds of a people, depreſſed by their preſent calamities, were directed to the hopes and fears of the inviſible world. His precepts and example defined the model of the Roman liturgy[69]; the diſtribution of the pariſhes, the calendar of feſtivals, the order of proceſſions, the ſervice of the prieſts and deacons, the variety and change of ſacerdotal garments. Till the laſt days of his life, he officiated in the canon of the maſs, which continued above three hours; the Gregorian chant[70] has

or Firſt, A. D. 590, Feb. 8— A. D. 604, March 12.

His ſpiritual office,

[69] The Lord's prayer conſiſts of half a dozen lines: the Sacramentarius and Antiphonarius of Gregory fill 880 folio pages (tom. iii. P. i. p. 1—880.); yet theſe only conſtitute a part of the *Ordo Romanus*, which Mabillon has illuſtrated and Fleury has abridged (Hiſt. Eccleſ. tom viii. p. 139—152.).

[70] I learn from the Abbé Dubos (Reflexions ſur la Poeſie et la Peinture, tom. iii. p. 174, 175.) that the ſimplicity of the Ambroſian chant

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has preſerved the vocal and inſtrumental muſic of the theatre, and the rough voices of the Barbarians attempted to imitate the melody of the Roman ſchool [71]. Experience had ſhewn him the efficacy of theſe ſolemn and pompous rites, to ſoothe the diſtreſs, to confirm the faith, to mitigate the fierceneſs, and to diſpel the dark enthuſiaſm of the vulgar, and he readily forgave their tendency to promote the reign of prieſthood and ſuperſtition. The biſhops of Italy and the adjacent iſlands acknowledged the Roman pontiff as their ſpecial metropolitan. Even the exiſtence, the union, or the tranſlation of epiſcopal ſeats, was decided by his abſolute diſcretion: and his ſucceſsful inroads into the provinces of Greece, of Spain, and of Gaul, might countenance the more lofty pretenſions of ſucceeding popes. He interpoſed to prevent the abuſes of popular elections; his jealous care maintained the purity of faith and diſcipline, and the apoſtolic ſhepherd aſſiduouſly watched over the faith and diſcipline of the ſubordinate paſtors. Under his reign, the Arians of Italy and Spain

chant was confined to four *modes*, while the more perfect harmony of the Gregorian compriſed the eight modes or fifteen chords of the ancient muſic. He obſerves (p. 332.) that the connoiſſeurs admire the preface and many paſſages of the Gregorian office.

[71] John the deacon (in Vit. Greg. l. ii. c. 7.) expreſſes the early contempt of the Italians for tramontane ſinging. Alpina ſcilicet corpora vocum ſuarum tonitruis altiſone perſtrepentia, ſuſceptæ modulationis dulcedinem proprie non reſultant: quia bibuli gutturis barbara feritas dum inflexionibus et repercuſſionibus mitem nititur edere cantilenam, naturali quodam fragore quaſi plauſtra per gradus confuſe ſonantia rigidas voces jactat, &c. In the time of Charlemagne, the Franks, though with ſome reluctance, admitted the juſtice of the reproach. Muratori, Diſſert. xxv.

were

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were reconciled to the Catholic church, and the conqueſt of Britain reflects leſs glory on the name of Cæſar, than on that of Gregory the Firſt. Inſtead of ſix legions, forty monks were embarked for that diſtant iſland, and the pontiff lamented the auſtere duties which forbade him to partake the perils of their ſpiritual warfare. In leſs than two years he could announce to the archbiſhop of Alexandria, that they had baptized the king of Kent with ten thouſand of his Anglo-Saxons, and that the Roman miſſionaries, like thoſe of the primitive church, were armed only with ſpiritual and ſupernatural powers. The credulity or the prudence of Gregory was always diſpoſed to confirm the truths of religion by the evidence of ghoſts, miracles, and reſurrections [72]; and poſterity has paid to *his* memory the ſame tribute, which he freely granted to the virtue of his own or the preceding generation. The celeſtial honours have been liberally beſtowed by the authority of the popes, but Gregory is the laſt of their own order whom they have preſumed to inſcribe in the calendar of ſaints.

and temporal government;

Their temporal power inſenſibly aroſe from the calamities of the times: and the Roman biſhops, who have deluged Europe and Aſia with blood, were compelled to reign as the miniſters of charity and peace. I. The church of Rome, as it has

[72] A French critic (Petrus Guſſanvillus, Opera, tom. ii. p. 105—112.) has vindicated the right of Gregory to the entire nonſenſe of the Dialogues. Dupin (tom. v. p. 138.) does not think that any one will vouch for the truth of all theſe miracles: I ſhould like to know *how many* of them he believed himſelf.

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been formerly obſerved, was endowed with ample poſſeſſions in Italy, Sicily, and the more diſtant provinces; and her agents, who were commonly ſubdeacons, had acquired a civil, and even criminal, juriſdiction over their tenants and huſbandmen. The ſucceſſor of St. Peter adminiſtered his patrimony with the temper of a vigilant and moderate landlord[73]; and the epiſtles of Gregory are filled with ſalutary inſtructions to abſtain from doubtful or vexatious law-ſuits; to preſerve the integrity of weights and meaſures; to grant every reaſonable delay, and to reduce the capitation of the ſlaves of the glebe, who purchaſed the right of marriage by the payment of an arbitrary fine[74]. The rent or the produce of theſe eſtates was tranſported to the mouth of the Tyber, at the riſk and expence of the pope: in the uſe of wealth, he acted like a faithful ſteward of the church and the poor, and liberally applied to their wants, the inexhauſtible reſources of abſtinence and order. The voluminous account of his receipts and diſburſements was kept above three hundred years in the Lateran, as the model of Chriſtian œconomy.

his eſtates,

73 Baronius is unwilling to expatiate on the care of the patrimonies, leſt he ſhould betray that they conſiſted not of *kingdoms* but *farms*. The French writers, the Benedictine editors (tom. iv. l. iii. p. 272, &c.), and Fleury (tom. viii. p. 29, &c.), are not afraid of entering into theſe humble, though uſeful, details; and the humanity of Fleury dwells on the ſocial virtues of Gregory.

74 I much ſuſpect that this pecuniary fine on the marriages of villains produced the famous, and often fabulous, right, *de cuiſſage*, *de marquette*, &c. With the conſent of her huſband, an handſome bride might commute the payment in the arms of a young landlord, and the mutual favour might afford a precedent of local rather than legal tyranny.

On

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and alms.

On the four great feſtivals, he divided their quarterly allowance to the clergy, to his domeſtics, to the monaſteries, the churches, the places of burial, the alms-houſes, and the hoſpitals of Rome, and the reſt of the dioceſe. On the firſt day of every month, he diſtributed to the poor, according to the ſeaſon, their ſtated portion of corn, wine, cheeſe, vegetables, oil, fiſh, freſh proviſions, clothes, and money; and his treaſurers were continually ſummoned to ſatisfy, in his name, the extraordinary demands of indigence and merit. The inſtant diſtreſs of the ſick and helpleſs, of ſtrangers and pilgrims, was relieved by the bounty of each day, and of every hour; nor would the pontiff indulge himſelf in a frugal repaſt, till he had ſent the diſhes from his own table to ſome objects deſerving of his compaſſion. The miſery of the times had reduced the nobles and matrons of Rome to accept, without a bluſh, the benevolence of the church: three thouſand virgins received their food and raiment from the hand of their benefactor; and many biſhops of Italy eſcaped from the Barbarians to the hoſpitable threſhold of the Vatican. Gregory might juſtly be ſtyled the Father of his Country; and ſuch was the extreme ſenſibility of his conſcience, that, for the death of a beggar who had periſhed in the ſtreets, he interdicted himſelf during ſeveral days from the exerciſe of ſacerdotal functions. II. The misfortunes of Rome involved the apoſtolical paſtor in the buſineſs of peace and war; and it might be doubtful to himſelf, whether piety or ambition prompted him

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him to ſupply the place of his abſent ſovereign. Gregory awakened the emperor from a long ſlumber, expoſed the guilt or incapacity of the exarch and his inferior miniſters, complained that the veterans were withdrawn from Rome for the defence of Spoleto, encouraged the Italians to guard their cities and altars; and condeſcended, in the criſis of danger, to name the tribunes, and to direct the operations of the provincial troops. But the martial ſpirit of the pope was checked by the ſcruples of humanity and religion: the impoſition of tribute, though it was employed in the Italian war, he freely condemned as odious and oppreſſive; whilſt he protected againſt the Imperial edicts, the pious cowardice of the ſoldiers who deſerted a military for a monaſtic life. If we may credit his own declarations, it would have been eaſy for Gregory to exterminate the Lombards by their domeſtic factions, without leaving a king, a duke, or a count, to ſave that unfortunate nation from the vengeance of their foes. As a Chriſtian biſhop, he preferred the ſalutary offices of peace; his mediation appeaſed the tumult of arms; but he was too conſcious of the arts of the Greeks, and the paſſions of the Lombards, to engage his ſacred promiſe for the obſervance of the truce. Diſappointed in the hope of a general and laſting treaty, he preſumed to ſave his country without the conſent of the emperor or the exarch. The ſword of the enemy was ſuſpended over Rome; it was averted by the mild eloquence and ſeaſonable gifts of the pontiff, who commanded the reſpect of heretics and Barbarians.

The

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The merits of Gregory were treated by the Byzantine court with reproach and inſult; but in the attachment of a grateful people, he found the pureſt reward of a citizen, and the beſt right of a ſovereign [75].

The ſaviour of Rome.

75 The temporal reign of Gregory I. is ably expoſed by Sigonius in the firſt book, de Regno Italiæ. See his works, tom. ii. p. 44—75.

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Revolutions of Perſia after the Death of Choſroes or Nuſhirvan.—His Son Hormouz, a Tyrant, is depoſed.—Uſurpation of Baharam.—Flight and Reſtoration of Choſroes II.*—His Gratitude to the Romans.—The Chagan of the Avars.—Revolt of the Army againſt Maurice.—His Death.—Tyranny of Phocas.—Elevation of Heraclius.—The Perſian War.—Choſroes ſubdues Syria, Egypt, and Aſia Minor.—Siege of Conſtantinople by the Perſians and Avars.—Perſian Expeditions.—Victories and Triumph of Heraclius.*

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Conteſt of Rome and Perſia.

THE conflict of Rome and Perſia was prolonged from the death of Craſſus to the reign of Heraclius. An experience of ſeven hundred years might convince the rival nations of the impoſſibility of maintaining their conqueſts beyond the fatal limits of the Tigris and Euphrates. Yet the emulation of Trajan and Julian was awakened by the trophies of Alexander, and the ſovereigns of Perſia indulged the ambitious hope of reſtoring the empire of Cyrus [1]. Such extraordinary efforts of power and courage will always command the attention of poſterity; but the events by which the

[1] Miſſis qui . . . repoſcerent . . . veteres Perſarum ac Macedonum terminos, ſequi invaſuruni poſſeſſa Cyro et poſt Alexandro, per vaniloquentiam ac minus jaciebat. Tacit. Annal. vi. 31. Such was the language of the *Arſacides*: I have repeatedly marked the lofty claims of the *Saſſanians*.

fate

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fate of nations is not materially changed, leave a faint impreſſion on the page of hiſtory, and the patience of the reader would be exhauſted by the repetition of the ſame hoſtilities, undertaken without cauſe, proſecuted without glory, and terminated without effect. The arts of negotiation, unknown to the ſimple greatneſs of the ſenate and the Cæſars, were aſſiduouſly cultivated by the Byzantine princes; and the memorials of their perpetual embaſſies [2] repeat, with the ſame uniform prolixity, the language of falſehood and declamation, the inſolence of the Barbarians, and the ſervile temper of the tributary Greeks. Lamenting the barren ſuperfluity of materials, I have ſtudied to compreſs the narrative of theſe unintereſting tranſactions: but the juſt Nuſhirvan is ſtill applauded as the model of Oriental kings, and the ambition of his grandſon Choſroes prepared the revolution of the Eaſt, which was ſpeedily accompliſhed by the arms and the religion of the ſucceſſors of Mahomet.

Conqueſt of Yemen by Nuſhirvan, A. D. 570, &c.

In the uſeleſs altercations, that precede and juſtify the quarrels of princes, the Greeks and the Barbarians accuſed each other of violating the peace which had been concluded between the two empires about four years before the death of Juſtinian. The ſovereign of Perſia and India aſpired to reduce under his obedience the province of Yemen or Arabia [3] Felix, the diſtant land of myrrh

[2] See the embaſſies of Menander, extracted and preſerved in the xth century by the order of Conſtantine Porphyrogenitus.

[3] The general independence of the Arabs, which cannot be admitted without many limitations, is blindly aſſerted in a ſeparate diſſertation

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myrrh and frankincenſe, which had eſcaped, rather than oppoſed, the conquerors of the Eaſt. After the defeat of Abrahah under the walls of Mecca, the diſcord of his ſons and brothers gave an eaſy entrance to the Perſians: they chaſed the ſtrangers of Abyſſinia beyond the Red Sea; and a native prince of the ancient Homerites was reſtored to the throne as the vaſſal or viceroy of the great Nuſhirvan [4]. But the nephew of Juſtinian declared his reſolution to avenge the injuries of his Chriſtian ally the prince of Abyſſinia, as they ſuggeſted a decent pretence to diſcontinue the annual *tribute*, which was poorly diſguiſed by the name of penſion. The churches of Perſarmenia were oppreſſed by the intolerant ſpirit of the Magi; they ſecretly invoked the protector of the Chriſtians, and after the pious murder of their ſatraps, the rebels were avowed and ſupported as the brethren and ſubjects of the Roman emperor. The complaints of Nuſhirvan were diſregarded by the Byzantine court; Juſtin yielded to the importunities of the Turks, who offered an alliance againſt the common enemy; and the Perſian monarchy was threatened at the

tation of the authors of the Univerſal Hiſtory, vol. xx. p. 196—250. A perpetual miracle is ſuppoſed to have guarded the prophecy in favour of the poſterity of Iſhmael; and theſe learned bigots are not afraid to riſk the truth of Chriſtianity on this frail and ſlippery foundation.

4 D'Herbelot, Biblioth. Orient. p. 477. Pocock, Specimen Hiſt. Arabum, p. 64, 65. Father Pagi (Critica, tom. ii. p. 646.) has proved that, after ten years peace, the Perſian war, which continued twenty years, was renewed A. D. 571. Mahomet was born A. D. 569, in the year of the elephant, or the defeat of Abrahah (Gagnier, Vie de Mahomet, tom. i. p. 89, 90. 98.); and this account allows two years for the conqueſt of Yemen.

fame

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ſame inſtant by the united forces of Europe, of Æthiopia, and of Scythia. At the age of fourſcore, the ſovereign of the Eaſt would perhaps have choſen the peaceful enjoyment of his glory and greatneſs: but as ſoon as war became inevitable, he took the field with the alacrity of youth, whilſt the aggreſſor trembled in the palace of Conſtantinople. Nuſhirvan, or Choſroes, conducted in perſon the ſiege of Dara; and although that important fortreſs had been left deſtitute of troops and magazines, the valour of the inhabitants reſiſted above five months the archers, the elephants, and the military engines of the great king. In the mean while his general Adarman advanced from Babylon, traverſed the deſert, paſſed the Euphrates, inſulted the ſuburbs of Antioch, reduced to aſhes the city of Apamea, and laid the ſpoils of Syria at the feet of his maſter, whoſe perſeverance in the midſt of winter at length ſubverted the bulwark of the Eaſt. But theſe loſſes, which aſtoniſhed the provinces and the court, produced a ſalutary effect in the repentance and abdication of the emperor Juſtin: a new ſpirit aroſe in the Byzantine councils; and a truce of three years was obtained by the prudence of Tiberius. That ſeaſonable interval was employed in the preparations of war; and the voice of rumour proclaimed to the world, that from the diſtant countries of the Alps and the Rhine, from Scythia, Mæſia, Pannonia, Illyricum, and Iſauria, the ſtrength of the Imperial cavalry was reinforced with one hundred and fifty thouſand ſoldiers. Yet the king of Per-

His laſt war with the Romans, A.D. 572, &c.

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ſia, without fear, or without faith, reſolved to prevent the attack of the enemy: again paſſed the Euphrates, and diſmiſſing the ambaſſadors of Tiberius, arrogantly commanded them to await his arrival at Cæſarea, the metropolis of the Cappadocian provinces. The two armies encountered each other in the battle of Melitene: the Barbarians, who darkened the air with a cloud of arrows, prolonged their line, and extended their wings acroſs the plain; while the Romans, in deep and ſolid bodies, expected to prevail in cloſer action, by the weight of their ſwords and lances. A Scythian chief, who commanded their right wing, ſuddenly turned the flank of the enemy, attacked their rear-guard in the preſence of Choſroes, penetrated to the midſt of the camp, pillaged the royal tent, profaned the eternal fire, loaded a train of camels with the ſpoils of Aſia, cut his way through the Perſian hoſt, and returned with ſongs of victory to his friends, who had conſumed the day in ſingle combats or ineffectual ſkirmiſhes. The darkneſs of the night, and the ſeparation of the Romans, afforded the Perſian monarch an opportunity of revenge; and one of their camps was ſwept away by a rapid and impetuous aſſault. But the review of his loſs, and the conſciouſneſs of his danger, determined Choſroes to a ſpeedy retreat: he burnt, in his paſſage, the vacant town of Melitene; and, without conſulting the ſafety of his troops, boldly ſwam the Euphrates on the back of an elephant. After this unſucceſsful campaign, the want of magazines, and perhaps ſome inroad of the Turks, obliged him to diſband or divide his forces;

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forces; the Romans were left maſters of the field, and their general Juſtinian, advancing to the relief of the Perſarmenian rebels, erected his ſtandard on the banks of the Araxes. The great Pompey had formerly halted within three days march of the Caſpian [5]: that inland ſea was explored, for the firſt time, by an hoſtile fleet [6], and ſeventy thouſand captives were tranſplanted from Hyrcania to the iſle of Cyprus. On the return of ſpring, Juſtinian deſcended into the fertile plains of Aſſyria, the flames of war approached the reſidence of Nuſhirvan, the indignant monarch ſunk into the grave, and his laſt edict reſtrained his ſucceſſors from expoſing their perſon in a battle againſt the Romans. Yet the memory of this tranſient affront was loſt in the glories of a long reign; and his formidable enemies, after indulging their dream of conqueſt, again ſolicited a ſhort reſpite from the calamities of war [7].

His death, A.D. 579.

5 He had vanquiſhed the Albanians, who brought into the field 22,000 horſe and 60,000 foot; but he dreaded the multitude of venomous reptiles, whoſe exiſtence may admit of ſome doubt, as well as that of the neighbouring Amazons. Plutarch, in Pompeio, tom. ii. p. 1165, 1166.

6 In the hiſtory of the world I can only perceive two navies on the Caſpian: 1. Of the Macedonians, when Patrocles, the admiral of the kings of Syria, Seleucus and Antiochus, deſcended moſt probably the river Oxus, from the confines of India (Plin. Hiſt. Natur. vi. 21.). 2. Of the Ruſſians, when Peter the Firſt conducted a fleet and army from the neighbourhood of Moſcow to the coaſt of Perſia (Bell's Travels, vol. ii. p. 325—352.). He juſtly obſerves, that ſuch martial pomp had never been diſplayed on the Volga.

7 For theſe Perſian wars and treaties, ſee Menander, in Excerpt. Legat. p. 113—125. Theophanes Byzant. apud Photium, cod. lxiv. p. 77. 80, 81. Evagrius, l. v. c. 7—15. Theophylact, l. iii. c. 9—16. Agathias, l. iv. p. 140.

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Tyranny and vices of his ſon Hormouz, A. D. 579—590.

The throne of Choſroes Nuſhirvan was filled by Hormouz, or Hormiſdas, the eldeſt or the moſt favoured of his ſons. With the kingdoms of Perſia and India, he inherited the reputation and example of his father, the ſervice, in every rank, of his wiſe and valiant officers, and a general ſyſtem of adminiſtration, harmoniſed by time and political wiſdom to promote the happineſs of the prince and people. But the royal youth enjoyed a ſtill more valuable bleſſing, the friendſhip of a ſage who had preſided over his education, and who always preferred the honour to the intereſt of his pupil, his intereſt to his inclination. In a diſpute with the Greek and Indian philoſophers, Buzurg [8] had once maintained, that the moſt grievous misfortune of life is old age without the remembrance of virtue; and our candour will preſume that the ſame principle compelled him, during three years, to direct the councils of the Perſian empire. His zeal was rewarded by the gratitude and docility of Hormouz, who acknowledged himſelf more indebted to his preceptor than to his parent: but when age and labour had impaired the ſtrength and perhaps the faculties of this prudent counſellor, he retired from court, and abandoned the youthful monarch to his own paſſions and thoſe of his favourites. By

[8] Buzurg Mihir may be conſidered, in his character and ſtation, as the Seneca of the Eaſt; but his virtues, and perhaps his faults, are leſs known than thoſe of the Roman, who appears to have been much more loquacious. The Perſian ſage was the perſon who imported from India the game of cheſs and the fables of Pilpay. Such has been the fame of his wiſdom and virtues, that the Chriſtians claim him as a believer in the goſpel; and the Mahometans revere Buzurg as a premature Muſulman. D'Herbelot, Bibliotheque Orientale, p. 218.

the

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the fatal viciſſitude of human affairs, the ſame ſcenes were renewed at Cteſiphon, which had been exhibited in Rome after the death of Marcus Antoninus. The miniſters of flattery and corruption, who had been baniſhed by the father, were recalled and cheriſhed by the ſon; the diſgrace and exile of the friends of Nuſhirvan eſtabliſhed their tyranny; and virtue was driven by degrees from the mind of Hormouz, from his palace, and from the government of the ſtate. The faithful agents, the eyes and ears of the king, informed him of the progreſs of diſorder, that the provincial governors flew to their prey with the fierceneſs of lions and eagles, and that their rapine and injuſtice would teach the moſt loyal of his ſubjects to abhor the name and authority of their ſovereign. The ſincerity of this advice was puniſhed with death, the murmurs of the cities were deſpiſed, their tumults were quelled by military execution; the intermediate powers between the throne and the people were aboliſhed; and the childiſh vanity of Hormouz, who affected the daily uſe of the tiara, was fond of declaring, that he alone would be the judge as well as the maſter of his kingdom. In every word, and in every action, the ſon of Nuſhirvan degenerated from the virtues of his father. His avarice defrauded the troops; his jealous caprice degraded the ſatraps: the palace, the tribunals, the waters of the Tigris, were ſtained with the blood of the innocent, and the tyrant exulted in the ſufferings and execution of thirteen thouſand victims. As the excuſe of his cruelty, he ſometimes condeſcended to obſerve, that the fears of the Perſians

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would be productive of hatred, and that their hatred muſt terminate in rebellion; but he forgot that his own guilt and folly had inſpired the ſentiments which he deplored, and prepared the event which he ſo juſtly apprehended. Exaſperated by long and hopeleſs oppreſſion, the provinces of Babylon, Suſa, and Carmania, erected the ſtandard of revolt; and the princes of Arabia, India, and Scythia, refuſed the cuſtomary tribute to the unworthy ſucceſſor of Nuſhirvan. The arms of the Romans, in ſlow ſieges and frequent inroads, afflicted the frontiers of Meſopotamia and Aſſyria; one of their generals profeſſed himſelf the diſciple of Scipio, and the ſoldiers were animated by a miraculous image of Chriſt, whoſe mild aſpect ſhould never have been diſplayed in the front of battle [9]. At the ſame time, the eaſtern provinces of Perſia were invaded by the great khan, who paſſed the Oxus at the head of three or four hundred thouſand Turks. The imprudent Hormouz accepted their perfidious and formidable aid; the cities of Khoraſan or Bactriana were commanded to open their gates; the march of the Barbarians towards the mountains of Hyrcania, revealed the correſpondence of the Turkiſh and Roman arms; and their union muſt have ſubverted the throne of the houſe of Saſſan.

9 See the imitation of Scipio in Theophylact, l. i. c. 14.; the image of Chriſt, l. ii. c. 3. Hereafter I ſhall ſpeak more amply of the Chriſtian *images*—I had almoſt ſaid *idols*. This, if I am not miſtaken, is the oldeſt αχειροποιητος of divine manufacture; but in the next thouſand years, many others iſſued from the ſame workſhop.

Perſia

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Exploits of Bahram, A.D. 590.

Perſia had been loſt by a king; it was ſaved by an hero. After his revolt, Varanes or Bahram is ſtigmatiſed by the ſon of Hormouz as an ungrateful ſlave: the proud and ambiguous reproach of deſpotiſm, ſince he was truly deſcended from the ancient princes of Rei [10], one of the ſeven families whoſe ſplendid, as well as ſubſtantial, prerogatives exalted them above the heads of the Perſian nobility [11]. At the ſiege of Dara, the valour of Bahram was ſignaliſed under the eyes of Nuſhirvan, and both the father and ſon ſucceſſively promoted him to the command of armies, the government of Media, and the ſuperintendence of the palace. The popular prediction which marked him as the deliverer of Perſia, might be inſpired by his paſt victories and extraordinary figure: the epithet *Giubin* is expreſſive of the quality of *dry wood*; he had the ſtrength and ſtature of a giant, and his

[10] Ragæ, or Rei, is mentioned in the apocryphal book of Tobit as already flouriſhing, 700 years before Chriſt, under the Aſſyrian empire. Under the foreign names of Europus and Arſacia, this city, 500 ſtadia to the ſouth of the Caſpian gates, was ſucceſſively embelliſhed by the Macedonians and Parthians (Strabo, l. xi. p. 796.). Its grandeur and populouſneſs in the ixth century, is exaggerated beyond the bounds of credibility; but Rei has been ſince ruined by wars and the unwholeſomeneſs of the air. Chardin, Voyage en Perſe, tom. i. p. 279, 280. D'Herbelot, Biblioth. Oriental. p. 714.

[11] Theophylact, l. iii. c. 18. The ſtory of the ſeven Perſians is told in the third book of Herodotus; and their noble deſcendants are often mentioned, eſpecially in the fragments of Cteſias. Yet the independence of Otanes (Herodot. l. iii. c. 83, 84.) is hoſtile to the ſpirit of deſpotiſm, and it may not ſeem probable that the ſeven families could ſurvive the revolutions of eleven hundred years. They might however be repreſented by the ſeven miniſters (Briſſon, de Regno Perſico, l. i. p. 190.); and ſome Perſian nobles, like the kings of Pontus (Polyb. l. v. p. 540.) and Cappadocia (Diodor. Sicul. l. xxxi. tom. ii. p. 517.), might claim their deſcent from the bold companions of Darius.

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ſavage countenance was fancifully compared to that of a wild cat. While the nation trembled, while Hormouz diſguiſed his terror by the name of ſuſpicion, and his ſervants concealed their diſloyalty under the maſk of fear, Bahram alone diſplayed his undaunted courage and apparent fidelity; and as ſoon as he found that no more than twelve thouſand ſoldiers would follow him againſt the enemy, he prudently declared, that to this fatal number heaven had reſerved the honours of the triumph. The ſteep and narrow deſcent of the Pule Rudbar [12] or Hyrcanian rock, is the only paſs through which an army can penetrate into the territory of Rei and the plains of Media. From the commanding heights, a band of reſolute men might overwhelm with ſtones and darts the myriads of the Turkiſh hoſt: their emperor and his ſon were tranſpierced with arrows; and the fugitives were left, without counſel or proviſions, to the revenge of an injured people. The patriotiſm of the Perſian general was ſtimulated by his affection for the city of his forefathers; in the hour of victory every peaſant became a ſoldier, and every ſoldier an hero; and their ardour was kindled by the gorgeous ſpectacle of beds, and thrones, and tables of maſſy gold, the ſpoils of Aſia, and the luxury of the hoſtile camp. A prince of a leſs malignant temper could not eaſily have forgiven his benefactor, and the ſecret hatred of Hor-

[12] See an accurate deſcription of this mountain by Olearius (Voyage en Perſe, p. 997, 998.), who aſcended it with much difficulty and danger in his return from Iſpahan to the Caſpian ſea.

mouz

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mouz was envenomed by a malicious report, that Bahram had privately retained the moſt precious fruits of his Turkiſh victory. But the approach of a Roman army on the ſide of the Araxes compelled the implacable tyrant to ſmile and to applaud; and the toils of Bahram were rewarded with the permiſſion of encountering a new enemy, by their ſkill and diſcipline more formidable than a Scythian multitude. Elated by his recent ſucceſs, he diſpatched an herald with a bold defiance to the camp of the Romans, requeſting them to fix a day of battle, and to chuſe whether they would paſs the river themſelves, or allow a free paſſage to the arms of the great king. The lieutenant of the emperor Maurice preferred the ſafer alternative, and this local circumſtance, which would have enhanced the victory of the Perſians, rendered their defeat more bloody and their eſcape more difficult. But the loſs of his ſubjects, and the danger of his kingdom, were overbalanced in the mind of Hormouz by the diſgrace of his perſonal enemy; and no ſooner had Bahram collected and reviewed his forces, than he received from a royal meſſenger the inſulting gift of a diſtaff, a ſpinning-wheel, and a complete ſuit of female apparel. Obedient to the will of his ſovereign, he ſhewed himſelf to the ſoldiers in this unworthy diſguiſe: they reſented his ignominy and their own; a ſhout of rebellion ran through the ranks, and the general accepted their oath of fidelity and vows of revenge. A ſecond meſſenger, who had been commanded to bring the rebel in chains, was trampled under the feet of an elephant, and manifeſtos were diligently circu-

His rebellion.

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circulated, exhorting the Perſians to aſſert their freedom againſt an odious and contemptible tyrant. The defection was rapid and univerſal: his loyal ſlaves were ſacrificed to the public fury; the troops deſerted to the ſtandard of Bahram; and the provinces again ſaluted the deliverer of his country.

Hormouz is depoſed and impriſoned.

As the paſſes were faithfully guarded, Hormouz could only compute the number of his enemies by the teſtimony of a guilty conſcience, and the daily defection of thoſe who, in the hour of his diſtreſs, avenged their wrongs, or forgot their obligations. He proudly diſplayed the enſigns of royalty; but the city and palace of Modain had already eſcaped from the hand of the tyrant. Among the victims of his cruelty, Bindoes, a Saſſanian prince, had been caſt into a dungeon: his fetters were broken by the zeal and courage of a brother; and he ſtood before the king at the head of thoſe truſty guards, who had been choſen as the miniſters of his confinement, and perhaps of his death. Alarmed by the haſty intruſion and bold reproaches of the captive, Hormouz looked round, but in vain, for advice or aſſiſtance; diſcovered that his ſtrength conſiſted in the obedience of others, and patiently yielded to the ſingle arm of Bindoes, who dragged him from the throne to the ſame dungeon in which he himſelf had been ſo lately confined. At the firſt tumult, Choſroes, the eldeſt of the ſons of Hormouz, eſcaped from the city; he was perſuaded to return by the preſſing and friendly invitation of Bindoes, who promiſed to ſeat him on his father's throne, and who expected to reign under the

the name of an inexperienced youth. In the juſt aſſurance, that his accomplices could neither forgive nor hope to be forgiven, and that every Perſian might be truſted as the judge and enemy of the tyrant, he inſtituted a public trial without a precedent and without a copy in the annals of the Eaſt. The ſon of Nuſhirvan, who had requeſted to plead in his own defence, was introduced as a criminal into the full aſſembly of the nobles and ſatraps [13]. He was heard with decent attention as long as he expatiated on the advantages of order and obedience, the danger of innovation, and the inevitable diſcord of thoſe who had encouraged each other to trample on their lawful and hereditary ſovereign. By a pathetic appeal to their humanity, he extorted that pity which is ſeldom refuſed to the fallen fortunes of a king; and while they beheld the abject poſture and ſqualid appearance of the priſoner, his tears, his chains, and the marks of ignominious ſtripes, it was impoſſible to forget how recently they had adored the divine ſplendour of his diadem and purple. But an angry murmur aroſe in the aſſembly as ſoon as he preſumed to vindicate his conduct, and to applaud the victories of his reign. He defined the duties of a king, and the Perſian nobles liſtened with a ſmile of contempt; they were fired with indignation when he dared to vilify the character of Choſroes; and by the indiſcreet offer of reſigning the ſceptre to the ſecond of his ſons, he ſubſcribed his

[13] The Orientals ſuppoſe that Bahram convened this aſſembly and proclaimed Choſroes; but Theophylact is, in this inſtance, more diſtinct and credible.

own

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own condemnation, and ſacrificed the life of his innocent favourite. The mangled bodies of the boy and his mother were expoſed to the people; the eyes of Hormouz were pierced with a hot needle; and the puniſhment of the father was ſucceeded by the coronation of his eldeſt ſon.

Elevation of his ſon Choſroes.

Choſroes had aſcended the throne without guilt, and his piety ſtrove to alleviate the miſery of the abdicated monarch; from the dungeon he removed Hormouz to an apartment of the palace, ſupplied with liberality the conſolations of ſenſual enjoyment, and patiently endured the furious ſallies of his reſentment and deſpair. He might deſpiſe the reſentment of a blind and unpopular tyrant, but the tiara was trembling on his head, till he could ſubvert the power, or acquire the friendſhip, of the great Bahram, who ſternly denied the juſtice of a revolution, in which himſelf and his ſoldiers, the true repreſentatives of Perſia, had never been conſulted. The offer of a general amneſty, and of the ſecond rank in his kingdom, was anſwered by an epiſtle from Bahram friend of the gods, conqueror of men, and enemy of tyrants, the ſatrap of ſatraps, general of the Perſian armies, and a prince adorned with the title of eleven virtues [14]. He commands Choſroes, the ſon of Hormouz, to ſhun the example and fate of his father, to confine the traitors who had been releaſed from their

[14] See the words of Theophylact, l. iv. c. 7. Βαραμ φιλος τοις θεοις, νικητης επιφανης, τυραννων εχθρος, σατραπης μιγιςανων, της Περσικης αρχων δυνάμεως, &c. In this anſwer, Choſroes ſtyles himſelf τη νυκτι χαριζομενος ομματα. . . . . ὁ της Ασωνας (the genii) μισθαμενος. This is genuine Oriental bombaſt.

chains,

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chains, to depoſit in ſome holy place the diadem which he had uſurped, and to accept from his gracious benefactor the pardon of his faults and the government of a province. The rebel might not be proud, and the king moſt aſſuredly was not humble; but the one was conſcious of his ſtrength, the other was ſenſible of his weakneſs; and even the modeſt language of his reply ſtill left room for treaty and reconciliation. Choſroes led into the field the ſlaves of the palace and the populace of the capital: they beheld with terror the banners of a veteran army; they were encompaſſed and ſurpriſed by the evolutions of the general; and the ſatraps who had depoſed Hormouz, received the puniſhment of their revolt, or expiated their firſt treaſon by a ſecond and more criminal act of diſloyalty. The life and liberty of Choſroes were ſaved, but he was reduced to the neceſſity of imploring aid or refuge in ſome foreign land; and the implacable Bindoes, anxious to ſecure an unqueſtionable title, haſtily returned to the palace, and ended, with a bow-ſtring, the wretched exiſtence of the ſon of Nuſhirvan [15].

Death of Hormouz, A.D. 590.

While Choſroes diſpatched the preparations of his retreat, he deliberated with his remaining friends [16], whether he ſhould lurk in the vallies of Mount

Choſroes flies to the Romans.

[15] Theophylact (l. iv. c. 7.) imputes the death of Hormouz to his ſon, by whoſe command he was beaten to death with clubs. I have followed the milder account of Khondemir and Eutychius, and ſhall always be content with the ſlighteſt evidence to extenuate the crime of parricide.

[16] After the battle of Pharſalia, the Pompey of Lucan (l. viii. 256—455.) holds a ſimilar debate. He was himſelf deſirous of ſeeking

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Mount Caucaſus, or fly to the tents of the Turks, or ſolicit the protection of the emperor. The long emulation of the ſucceſſors of Artaxerxes and Conſtantine increaſed his reluctance to appear as a ſuppliant in a rival court; but he weighed the forces of the Romans, and prudently conſidered, that the neighbourhood of Syria would render his eſcape more eaſy and their ſuccours more effectual. Attended only by his concubines, and a troop of thirty guards, he ſecretly departed from the capital, followed the banks of the Euphrates, traverſed the deſert, and halted at the diſtance of ten miles from Circeſium. About the third watch of the night, the Roman præfect was informed of his approach, and he introduced the royal ſtranger to the fortreſs at the dawn of day. From thence the king of Perſia was conducted to the more honourable reſidence of Hierapolis; and Maurice diſſembled his pride, and diſplayed his benevolence, at the reception of the letters and ambaſſadors of the grandſon of Nuſhirvan. They humbly repreſented the viciſſitudes of fortune and the common intereſt of princes, exaggerated the ingratitude of Bahram the agent of the evil principle, and urged, with ſpecious argument, that it was for the advantage of the Romans themſelves to ſupport the two monarchies which balance the world, the two great luminaries by whoſe ſalutary influence it is vivified and adorn-

ing the Parthians; but his companions abhorred the unnatural alliance; and the adverſe prejudices might operate as forcibly on Choſroes and his companions, who could deſcribe, with the ſame vehemence, the contraſt of laws, religion, and manners, between the Eaſt and Weſt.

ed,

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ed. The anxiety of Choſroes was ſoon relieved by the aſſurance, that the emperor had eſpouſed the cauſe of juſtice and royalty; but Maurice prudently declined the expence and delay of his uſeleſs viſit to Conſtantinople. In the name of his generous benefactor, a rich diadem was preſented to the fugitive prince with an ineſtimable gift of jewels and gold; a powerful army was aſſembled on the frontiers of Syria and Armenia, under the command of the valiant and faithful Narſes [17], and this general, of his own nation, and his own choice, was directed to paſs the Tigris, and never to ſheath his ſword till he had reſtored Choſroes to the throne of his anceſtors. The enterpriſe, however ſplendid, was leſs arduous than it might appear. Perſia had already repented of her fatal raſhneſs, which betrayed the heir of the houſe of Saſſan to the ambition of a rebellious ſubject; and the bold refuſal of the Magi to conſecrate his uſurpation, compelled Bahram to aſſume the ſceptre, regardleſs of the laws and prejudices of the nation. The palace was ſoon diſtracted with conſpiracy, the city with tumult, the provinces with inſurrection; and the cruel execution of the guilty and the ſuſpected, ſerved to irritate rather than ſubdue the public diſcontent. No

His return,

[17] In this age there were three warriors of the name of *Narſes*, who have been often confounded (Pagi, Critica, tom. ii. p. 640.): 1. A Perſarmenian, the brother of Iſaac and Armatius, who, after a ſucceſsful action againſt Beliſarius, deſerted from his Perſian ſovereign, and afterwards ſerved in the Italian war.—2. The eunuch who conquered Italy.—3. The reſtorer of Choſroes, who is celebrated in the poem of Corippus (l. iii. 220—227.) as excelſus ſuper omnia vertice agmina .... habitu modeſtus .... morum probitate placens, virtute verendus; fulmineus, cautus, vigilans, &c.

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ſooner did the grandſon of Nuſhirvan diſplay his own and the Roman banners beyond the Tigris, than he was joined, each day, by the increaſing multitudes of the nobility and people; and as he advanced, he received from every ſide the grateful offerings of the keys of his cities and the heads of his enemies. As ſoon as Modain was freed from the preſence of the uſurper, the loyal inhabitants obeyed the firſt ſummons of Mebodes at the head of only two thouſand horſe, and Choſroes accepted the ſacred and precious ornaments of the palace as the pledge of their truth and a preſage of his approaching ſucceſs. After the junction of the Imperial troops, which Bahram vainly ſtruggled to prevent, the conteſt was decided by two battles on the banks of the Zab, and the confines of Media. The Romans, with the faithful ſubjects of Perſia, amounted to ſixty thouſand, while the whole force of the uſurper did not exceed forty thouſand men: the two generals ſignaliſed their valour and ability, but the victory was finally determined by the prevalence of numbers and diſcipline. With the remnant of a broken army, Bahram fled towards the eaſtern provinces of the Oxus: the enmity of Perſia reconciled him to the Turks; but his days were ſhortened by poiſon, perhaps the moſt incurable of poiſons; the ſtings of remorſe and deſpair, and the bitter remembrance of loſt glory. Yet the modern Perſians ſtill commemorate the exploits of Bahram; and ſome excellent laws have prolonged the duration of his troubled and tranſitory reign.

and final victory.

Death of Bahram.

Reſtoration and policy of

The reſtoration of Choſroes was celebrated with feaſts and executions; and the muſic of the royal banquet

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Choſroes, A. D. 591—603.

banquet was often diſturbed by the groans of dying or mutilated criminals. A general pardon might have diffuſed comfort and tranquillity through a country which had been ſhaken by the late revolutions; yet, before the ſanguinary temper of Choſroes is blamed, we ſhould learn whether the Perſians had not been accuſtomed either to dread the rigour, or to deſpiſe the weakneſs, of their ſovereign. The revolt of Bahram, and the conſpiracy of the ſatraps, were impartially puniſhed by the revenge or juſtice of the conqueror; the merits of Bindoes himſelf could not purify his hand from the guilt of royal blood; and the ſon of Hormouz was deſirous to aſſert his own innocence and to vindicate the ſanctity of kings. During the vigour of the Roman power, ſeveral princes were ſeated on the throne of Perſia by the arms and the authority of the firſt Cæſars. But their new ſubjects were ſoon diſguſted with the vices or virtues which they had imbibed in a foreign land; the inſtability of their dominion gave birth to a vulgar obſervation, that the choice of Rome was ſolicited and rejected with equal ardour by the capricious levity of Oriental ſlaves[18]. But the glory of Maurice was conſpicuous in the long and fortunate reign of his *ſon* and his ally. A band of a thouſand Romans, who continued to guard the perſon of

[18] Experimentis cognitum eſt Barbaros malle Româ petere reges quam habere. Theſe experiments are admirably repreſented in the invitation and expulſion of Vonones (Annal. ii. 1—3.), Tiridates (Annal. vi. 32—44.), and Meherdates (Annal. xi. 10. xii. 10—14.). The eye of Tacitus ſeems to have tranſpierced the camp of the Parthians and the walls of the haram.

Choſroes,

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Choſroes, proclaimed his confidence in the fidelity of the ſtrangers; his growing ſtrength enabled him to diſmiſs this unpopular aid, but he ſteadily profeſſed the ſame gratitude and reverence to his adopted father; and till the death of Maurice, the peace and alliance of the two empires were faithfully maintained. Yet the mercenary friendſhip of the Roman prince had been purchaſed with coſtly and important gifts: the ſtrong cities of Martyropolis and Dara were reſtored, and the Perſarmenians became the willing ſubjects of an empire, whoſe eaſtern limit was extended, beyond the example of former times, as far as the banks of the Araxes and the neighbourhood of the Caſpian. A pious hope was indulged, that the church as well as the ſtate might triumph in this revolution: but if Choſroes had ſincerely liſtened to the Chriſtian biſhops, the impreſſion was erazed by the zeal and eloquence of the Magi: if he was armed with philoſophic indifference, he accommodated his belief, or rather his profeſſions, to the various circumſtances of an exile and a ſovereign. The imaginary converſion of the king of Perſia was reduced to a local and ſuperſtitious veneration for Sergius [19], one of the ſaints of Antioch, who heard his prayers and appeared to him in dreams; he enriched the ſhrine with offerings of gold and ſilver,

19. Sergius and his companion Bacchus, who are ſaid to have ſuffered in the perſecution of Maximian, obtained divine honour in France, Italy, Conſtantinople, and the Eaſt. Their tomb at Raſaphe was famous for miracles, and that Syrian town acquired the more honourable name of Sergiopolis. Tillemont, Mem. Eccleſ. tom. v. p. 491—496. Butler's Saints, vol. x. p. 155.

and

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and aſcribed to this inviſible patron the ſucceſs of his arms, and the pregnancy of Sira, a devout Chriſtian and the beſt beloved of his wives [20]. The beauty of Sira, or Schirin [21], her wit, her muſical talents, are ſtill famous in the hiſtory or rather in the romances of the Eaſt: her own name is expreſſive, in the Perſian tongue, of ſweetneſs and grace; and the epithet of *Parviz* alludes to the charms of her royal lover. Yet Sira never ſhared the paſſion which ſhe inſpired, and the bliſs of Choſroes was tortured by a jealous doubt, that while he poſſeſſed her perſon, ſhe had beſtowed her affections on a meaner favourite [22].

While

[20] Evagrius (l. vi. c. 21.) and Theophylact (l. v. c. 13, 14.) have preſerved the original letters of Choſroes, written in Greek, ſigned with his own hand, and afterwards inſcribed on croſſes and tables of gold, which were depoſited in the church of Sergiopolis. They had been ſent to the biſhop of Antioch, as primate of Syria.

[21] The Greeks only deſcribe her as a Roman by birth, a Chriſtian by religion; but ſhe is repreſented as the daughter of the emperor Maurice in the Perſian and Turkiſh romances, which celebrate the love of Khoſrou for Schirin, of Schirin for Ferhad, the moſt beautiful youth of the Eaſt. D'Herbelot, Biblioth. Orient. p. 789. 997, 998.

[22] The whole ſeries of the tyranny of Hormouz, the revolt of Bahram, and the flight and reſtoration of Choſroes, is related by two contemporary Greeks—more concisely by Evagrius (l. vi. c. 16, 17, 18, 19.)—and moſt diffuſely by Theophylact Simocatta (l. iii. c. 6—18. l. iv. c. 1—16. l. v. c. 1—15.) 1 ſucceeding compilers, Zonaras and Cedrenus, can only tranſcribe and abridge. The Chriſtian Arabs, Eutychius (Annal. tom. ii. p. 200—208.) and Abulpharagius (Dynaſt. p. 96—98.), appear to have conſulted ſome particular memoirs. The great Perſian hiſtorians of the xvth century, Mirkhond and Khondemir, are only known to me by the imperfect extracts of Schikard (Tarikh, p. 150—155.), Texeira, or rather Stevens (Hiſt. of Perſia, p. 182—186.), a Turkiſh MS. tranſlated by the Abbé Fourmont (Hiſt. de l'Academie des Inſcriptions, tom. vii. p. 325—334.), and d'Herbelot (aux mots, *Hormouz*, p. 457—459.

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Pride, policy, and power of the chagan of the Avars, A. D. 570—600, &c.

While the majeſty of the Roman name was revived in the Eaſt, the proſpect of Europe is leſs pleaſing and leſs glorious. By the departure of the Lombards, and the ruin of the Gepidæ, the balance of power was deſtroyed on the Danube; and the Avars ſpread their permanent dominion from the foot of the Alps to the ſea-coaſt of the Euxine. The reign of Baian is the brighteſt æra of their monarchy; their chagan, who occupied the ruſtic palace of Attila, appears to have imitated his character and policy[23]; but as the ſame ſcenes were repeated in a ſmaller circle, a minute repreſentation of the copy would be devoid of the greatneſs and novelty of the original. The pride of the ſecond Juſtin, of Tiberius, and Maurice, was humbled by a proud Barbarian, more prompt to inflict, than expoſed to ſuffer, the injuries of war; and as often as Aſia was threatened by the Perſian arms, Europe was oppreſſed by the dangerous inroads, or coſtly friendſhip, of the Avars. When the Roman envoys approached the preſence of the chagan, they were commanded to wait at the door of his

459. Bahram, p. 174. Khoſrou Parviz, p. 996.). Were I perfectly ſatisfied of their authority, I could wiſh theſe Oriental materials had been more copious.

[23] A general idea of the pride and power of the chagan may be taken from Menander (Excerpt. Legat. p. 117, &c.) and Theophylact (l. i. c. 3. l. vii. c. 15.), whoſe eight books are much more honourable to the Avar than to the Roman prince. The predeceſſors of Baian had taſted the liberality of Rome, and *he* ſurvived the reign of Maurice (Buat, Hiſt. des Peuples Barbares, tom. xi. p. 545.). The chagan who invaded Italy A. D. 611 (Muratori, Annali, tom. v. p. 305.) was then juvenili ætate florentem (Paul Warnefrid, de Geſt. Langobard. l. v. c. 38.), the ſon, perhaps, or the grandſon, of Baian.

tent, till, at the end perhaps of ten or twelve days, he condeſcended to admit them. If the ſubſtance or the ſtyle of their meſſage was offenſive to his ear, he inſulted, with real or affected fury, their own dignity, and that of their prince; their baggage was plundered, and their lives were only ſaved by the promiſe of a richer preſent and a more reſpectful addreſs. But *his* ſacred ambaſſadors enjoyed and abuſed an unbounded licenſe in the midſt of Conſtantinople: they urged, with importunate clamours, the increaſe of tribute, or the reſtitution of captives and deſerters; and the majeſty of the empire was almoſt equally degraded by a baſe compliance, or by the falſe and fearful excuſes, with which they eluded ſuch inſolent demands. The chagan had never ſeen an elephant; and his curioſity was excited by the ſtrange, and perhaps fabulous, portrait of that wonderful animal. At his command, one of the largeſt elephants of the Imperial ſtables was equipped with ſtately capariſons, and conducted by a numerous train to the royal village in the plains of Hungary. He ſurveyed the enormous beaſt with ſurpriſe, with diſguſt, and poſſibly with terror; and ſmiled at the vain induſtry of the Romans, who, in ſearch of ſuch uſeleſs rarities, could explore the limits of the land and ſea. He wiſhed, at the expence of the emperor, to repoſe in a golden bed. The wealth of Conſtantinople, and the ſkilful diligence of her artiſts, were inſtantly devoted to the gratification of his caprice; but when the work was finiſhed, he rejected with ſcorn a preſent ſo unworthy the ma-

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jeſty of a great king[24]. Theſe were the caſual ſallies of his pride, but the avarice of the chagan was a more ſteady and tractable paſſion: a rich and regular ſupply of ſilk apparel, furniture, and plate, introduced the rudiments of art and luxury among the tents of the Scythians; their appetite was ſtimulated by the pepper and cinnamon of India[25]; the annual ſubſidy or tribute was raiſed from fourſcore to one hundred and twenty thouſand pieces of gold; and after each hoſtile interruption, the payment of the arrears, with exorbitant intereſt, was always made the firſt condition of the new treaty. In the language of a Barbarian, without guile, the prince of the Avars affected to complain of the inſincerity of the Greeks[26], yet he was not inferior to the moſt civilized nations in the refinements of diſſimulation and perfidy. As the ſucceſſor of the Lombards, the chagan aſſerted his claim to the important city of Sirmium, the ancient bulwark of the Illyrian provinces[27]. The plains of the Lower Hungary were covered with

24 Theophylact, l. i. c. 5, 6.

25 Even in the field, the chagan delighted in the uſe of theſe aromatics. He ſolicited, as a gift, Ινδικας καρυχιας, and received πεπερι και φυλλου Ινδου, κασιαν τε και τοιλεγομενον κοστον. Theophylact, l. vii. c. 13. The Europeans of the ruder ages conſumed more ſpices in their meat and drink than is compatible with the delicacy of a modern palate. Vie Privée des François, tom. ii. p. 162, 163.

26 Theophylact, l. vi. c. 6. l. vii. c. 15. The Greek hiſtorian confeſſes the truth and juſtice of his reproach.

27 Menander (in Excerpt. Legat. p. 126—132. 174, 175.) deſcribes the perjury of Baian and the ſurrender of Sirmium. We have loſt his account of the ſiege, which is commended by Theophylact, l. i. c. 3. Το δ' οπως Μαυριδιῳ τῳ πεζικῳ σαφως διηγορευται.

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the Avar horſe, and a fleet of large boats was built in the Hercynian wood; to deſcend the Danube, and to tranſport into the Save the materials of a bridge. But as the ſtrong garriſon of Singidunum, which commanded the conflux of the two rivers, might have ſtopped their paſſage and baffled his deſigns, he diſpelled their apprehenſions by a ſolemn oath, that his views were not hoſtile to the empire. He ſwore by his ſword, the ſymbol of the god of war, that he did not, as the enemy of Rome, conſtruct a bridge upon the Save. "If I "violate my oath," purſued the intrepid Baian, "may I myſelf, and the laſt of my nation, periſh "by the ſword! may the heavens, and fire, the "deity of the heavens, fall upon our heads! may "the foreſts and mountains bury us in their ruins! "and the Save returning, againſt the laws of na- "ture, to his ſource, overwhelm us in his angry "waters!" After this barbarous imprecation, he calmly inquired, what oath was moſt ſacred and venerable among the Chriſtians, what guilt of perjury it was moſt dangerous to incur. The biſhop of Singidunum preſented the goſpel, which the chagan received with devout reverence. "I "ſwear," ſaid he, "by the God who has ſpoken "in this holy book, that I have neither falſehood "on my tongue, nor treachery in my heart." As ſoon as he roſe from his knees, he accelerated the labour of the bridge, and diſpatched an envoy to proclaim what he no longer wiſhed to conceal. "Inform the emperor," ſaid the perfidious Baian, "that Sirmium is inveſted on every ſide. Adviſe

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" his prudence to withdraw the citizens and their " effects, and to reſign a city which it is now im- " poſſible to relieve or defend." Without the hope of relief, the defence of Sirmium was prolonged above three years: the walls were ſtill untouched; but famine was incloſed within the walls, till a merciful capitulation allowed the eſcape of the naked and hungry inhabitants. Singidunum, at the diſtance of fifty miles, experienced a more cruel fate: the buildings were razed, and the vanquiſhed people was condemned to ſervitude and exile. Yet the ruins of Sirmium are no longer viſible; the advantageous ſituation of Singidunum ſoon attracted a new colony of Sclavonians, and the conflux of the Save and Danube is ſtill guarded by the fortifications of Belgrade, or the *White City*, ſo often and ſo obſtinately diſputed by the Chriſtian and Turkiſh arms [28]. From Belgrade to the walls of Conſtantinople a line may be meaſured of ſix hundred miles: that line was marked with flames and with blood; the horſes of the Avars were alternately bathed in the Euxine and the Adriatic; and the Roman pontiff, alarmed by the approach of a more ſavage enemy [29], was reduced to cheriſh

[28] See d'Anville, in the Memoires de l'Acad. des Inſcriptions, tom. xxviii. p. 412—443. The Sclavonic name of *Belgrade* is mentioned in the x^th^ century by Conſtantine Porphyrogenitus; the Latin appellation of *Alba Græca* is uſed by the Franks in the beginning of the ix^th^ (p. 414.).

[29] Baron. Annal. Eccleſ. A. D. 600, N° 1. Paul Warnefrid (l. iv. c. 38.) relates their irruption into Friuli, and (c. 39.) the captivity of his anceſtors, about A. D. 632. The Sclavi traverſed the Hadriatic, cum multitudine navium, and made a deſcent in the territory of Sipontum (c. 47.).

the

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the Lombards as the protectors of Italy. The deſpair of a captive, whom his country refuſed to ranſom, diſcloſed to the Avars the invention and practice of military engines [30], but in the firſt attempts, they were rudely framed, and awkwardly managed; and the reſiſtance of Diocletianopolis and Beræa, of Philippopolis and Adrianople, ſoon exhauſted the ſkill and patience of the beſiegers. The warfare of Baian was that of a Tartar, yet his mind was ſuſceptible of a humane and generous ſentiment: he ſpared Anchialus, whoſe ſalutary waters had reſtored the health of the beſt beloved of his wives; and the Romans confeſs, that their ſtarving army was fed and diſmiſſed by the liberality of a foe. His empire extended over Hungary, Poland, and Pruſſia, from the mouth of the Danube to that of the Oder [31]; and his new ſubjects were divided and tranſplanted by the jealous policy of the conqueror [32]. The eaſtern regions of Germany, which had been left vacant by the emigration of the Vandals, were repleniſhed with Sclavonian coloniſts; the ſame tribes are diſcovered in

30 Even the helepolis, or moveable turret. Theophylact, l. ii. 16, 17.

31 The arms and alliances of the chagan reached to the neighbourhood of a weſtern ſea, fifteen months journey from Conſtantinople. The emperor Maurice converſed with ſome itinerant harpers from that remote country, and only ſeems to have miſtaken a trade for a nation. Theophylact, l. vi. c. 2.

32 This is one of the moſt probable and luminous conjectures of the learned count de Buat (Hiſt. des Peuples Barbares, tom. xi. p. 546—568.). The Tzechi and Serbi are found together near mount Caucaſus, in Illyricum, and on the Lower Elbe. Even the wildeſt traditions of the Bohemians, &c. afford ſome colour to his hypotheſis.

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the neighbourhood of the Adriatic and of the Baltic, and with the name of Baian himſelf, the Illyrian cities of Neyſs and Liſſa are again found in the heart of Sileſia. In the diſpoſition both of his troops and provinces, the chagan expoſed the vaſſals, whoſe lives he diſregarded [33], to the firſt aſſault; and the ſwords of the enemy were blunted before they encountered the native valour of the Avars.

Wars of Maurice againſt the Avars, A. D. 595—602.

The Perſian alliance reſtored the troops of the Eaſt to the defence of Europe; and Maurice, who had ſupported ten years the inſolence of the chagan, declared his reſolution to march in perſon againſt the Barbarians. In the ſpace of two centuries, none of the ſucceſſors of Theodoſius had appeared in the field, their lives were ſupinely ſpent in the palace of Conſtantinople; and the Greeks could no longer underſtand, that the name of *emperor*, in its primitive ſenſe, denoted the chief of the armies of the republic. The martial ardour of Maurice was oppoſed by the grave flattery of the ſenate, the timid ſuperſtition of the patriarch, and the tears of the empreſs Conſtantina; and they all conjured him to devolve on ſome meaner general the fatigues and perils of a Scythian campaign. Deaf to their advice and entreaty, the emperor boldly advanced [34] ſeven miles from the capital; the ſacred enſign

33 See Fredegarius, in the Hiſtorians of France, tom. ii. p. 432. Baian did not conceal his proud inſenſibility. Οτι τοιωτυς (not τοσυτυς, according to a fooliſh emendation) επαφησω τη Ρωμαϊκη, ως τι και συμβαιη γε σφισι θανατω ἀλωναι, αλλ' εμοι γε μη γενεσθαι συναισθησιν.

34 See the march and return of Maurice, in Theophylact, l. v. c. 16. l. vi. c. 1, 2, 3. If he were a writer of taſte or genius, we might

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enſign of the croſs was diſplayed in the front, and Maurice reviewed, with conſcious pride, the arms and numbers of the veterans who had fought and conquered beyond the Tigris. Anchialus was the laſt term of his progreſs by ſea and land; he ſolicited, without ſucceſs, a miraculous anſwer to his nocturnal prayers; his mind was confounded by the death of a favourite horſe, the encounter of a wild boar, a ſtorm of wind and rain, and the birth of a monſtrous child; and he forgot that the beſt of omens is, to unſheath our ſword in the defence of our country [35]. Under the pretence of receiving the ambaſſadors of Perſia, the emperor returned to Conſtantinople, exchanged the thoughts of war for thoſe of devotion, and diſappointed the public hope by his abſence and the choice of his lieutenants. The blind partiality of fraternal love might excuſe the promotion of his brother Peter, who fled with equal diſgrace from the Barbarians, from his own ſoldiers, and from the inhabitants of a Roman city. That city, if we may credit the reſemblance of name and character, was the famous Azimuntium [36], which had alone repelled the tempeſt of

might ſuſpect him of an elegant irony: but Theophylact is ſurely harmleſs.

35 Εις οιωνος αριστος αμυνεσθαι περι πατρης. Iliad xii. 243. This noble verſe, which unites the ſpirit of an hero with the reaſon of a ſage, may prove that Homer was in every light ſuperior to his age and country.

36 Theophylact, l. vii. c. 3. On the evidence of this fact, which had not occurred to my memory, the candid reader will correct and excuſe a note in the vith volume of this hiſtory, p. 63. which haſtens the decay of Aſimus, or Azimuntium: another century of patriotiſm and valour is cheaply purchaſed by ſuch a confeſſion.

Attila,

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Attila. The example of her warlike youth was propagated to ſucceeding generations; and they obtained, from the firſt or the ſecond Juſtin, an honourable privilege, that their valour ſhould be always reſerved for the defence of their native country. The brother of Maurice attempted to violate this privilege, and to mingle a patriot band with the mercenaries of his camp; they retired to the church, he was not awed by the ſanctity of the place; the people roſe in their cauſe, the gates were ſhut, the ramparts were manned; and the cowardice of Peter was found equal to his arrogance and injuſtice. The military fame of Commentiolus[37] is the object of ſatire or comedy rather than of ſerious hiſtory, ſince he was even deficient in the vile and vulgar qualification of perſonal courage. His ſolemn councils, ſtrange evolutions, and ſecret orders, always ſupplied an apology for flight or delay. If he marched againſt the enemy, the pleaſant vallies of mount Hæmus oppoſed an inſuperable barrier; but in his retreat, he explored, with fearleſs curioſity, the moſt difficult and obſolete paths, which had almoſt eſcaped the memory of the oldeſt native. The only blood which he loſt was drawn, in a real or affected malady, by the lancet of a ſurgeon; and his health, which felt with exquiſite ſenſibility the approach of the Barbarians, was uniformly reſtored by the repoſe and ſafety of the winter ſeaſon. A prince who could promote and ſupport this unworthy favourite muſt

37 See the ſhameful conduct of Commentiolus, in Theophylact, l. ii. c. 10—15. l. vii. c. 13, 14. l. viii. c. 2. 4.

derive

derive no glory from the accidental merit of his colleague Priſcus [38]. In five ſucceſſive battles, which ſeem to have been conducted with ſkill and reſolution, ſeventeen thouſand two hundred Barbarians were made priſoners: near ſixty thouſand, with four ſons of the chagan, were ſlain: the Roman general ſurpriſed a peaceful diſtrict of the Gepidæ, who ſlept under the protection of the Avars; and his laſt trophies were erected on the banks of the Danube and the Teyſs. Since the death of Trajan, the arms of the empire had not penetrated ſo deeply into the old Dacia: yet the ſucceſs of Priſcus was tranſient and barren; and he was ſoon recalled, by the apprehenſion, that Baian, with dauntleſs ſpirit and recruited forces, was preparing to avenge his defeat under the walls of Conſtantinople [39].

State of the Roman armies:

The theory of war was not more familiar to the camps of Cæſar and Trajan, than to thoſe of Juſtinian and Maurice [40]. The iron of Tuſcany or Pontus ſtill received the keeneſt temper from the ſkill of the Byzantine workmen. The magazines

38 See the exploits of Priſcus, l. viii. c. 2, 3.

39 The general detail of the war againſt the Avars, may be traced in the firſt, ſecond, ſixth, ſeventh, and eighth books of the Hiſtory of the Emperor Maurice, by Theophylact Simocatta. As he wrote in the reign of Heraclius, he had no temptation to flatter; but his want of judgment renders him diffuſe in trifles and conciſe in the moſt intereſting facts.

40 Maurice himſelf compoſed xii books on the military art, which are ſtill extant, and have been publiſhed (Upſal, 1664) by John Scheffer at the end of the Tactics of Arrian (Fabricius, Bibliot. Græca, l. iv. c. 8. tom. iii. p. 278.), who promiſes to ſpeak more fully of his work in its proper place.

were

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were plentifully ſtored with every ſpecies of offenſive and defenſive arms. In the conſtruction and uſe of ſhips, engines, and fortifications, the Barbarians admired the ſuperior ingenuity of a people whom they ſo often vanquiſhed in the field. The ſcience of tactics, the order, evolutions, and ſtratagems of antiquity, was tranſcribed and ſtudied in the books of the Greeks and Romans. But the ſolitude or degeneracy of the provinces could no longer ſupply a race of men to handle thoſe weapons, to guard thoſe walls, to navigate thoſe ſhips, and to reduce the theory of war into bold and ſucceſsful practice. The genius of Beliſarius and Narſes had been formed without a maſter, and expired without a diſciple. Neither honour, nor patriotiſm, nor generous ſuperſtition, could animate the lifeleſs bodies of ſlaves and ſtrangers, who had ſucceeded to the honours of the legions: it was in the camp alone that the emperor ſhould have exerciſed a deſpotic command; it was only in the camps that his authority was diſobeyed and inſulted: he appeaſed and inflamed with gold the licentiouſneſs of the troops; but their vices were inherent, their victories were accidental, and their coſtly maintenance exhauſted the ſubſtance of a ſtate which they were unable to defend. After a long and pernicious indulgence, the cure of this inveterate evil was undertaken by Maurice: but the raſh attempt, which drew deſtruction on his own head, tended only to aggravate the diſeaſe. A reformer ſhould be exempt from the ſuſpicion of intereſt, and he muſt poſſeſs the confidence and eſteem of thoſe whom he propoſes to reclaim. The troops

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troops of Maurice might liſten to the voice of a victorious leader; they diſdained the admonitions of ſtateſmen and ſophiſts, and when they received an edict which deducted from their pay the price of their arms and clothing, they execrated the avarice of a prince inſenſible of the dangers and fatigues from which he had eſcaped. The camps both of Aſia and Europe were agitated with frequent and furious ſeditions [41]; the enraged ſoldiers of Edeſſa purſued, with reproaches, with threats, with wounds, their trembling generals: they overturned the ſtatues of the emperor, caſt ſtones againſt the miraculous image of Chriſt, and either rejected the yoke of all civil and military laws, or inſtituted a dangerous model of voluntary ſubordination. The monarch, always diſtant and often deceived, was incapable of yielding or perſiſting according to the exigence of the moment. But the fear of a general revolt induced him too readily to accept any act of valour, or any expreſſion of loyalty, as an atonement for the popular offence; the new reform was aboliſhed as haſtily as it had been announced, and the troops, inſtead of puniſhment and reſtraint, were agreeably ſurpriſed by a gracious proclamation of immunities and rewards. But the ſoldiers accepted without gratitude the tardy and reluctant gifts of the emperor; their inſolence was elated by the diſcovery of his weakneſs and their own ſtrength; and their mutual hatred was inflamed beyond the deſire of forgiveneſs or the

their diſcontent,

[41] See the mutinies under the reign of Maurice, in Theophylact, l. iii. c. 1—4. l. vi. c. 7, 8. 10. l. vii. c. 1. l. viii. c. 6, &c.

hope

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hope of reconciliation. The hiſtorians of the times adopt the vulgar ſuſpicion, that Maurice conſpired to deſtroy the troops whom he had laboured to reform; the miſconduct and favour of Commentiolus are imputed to this malevolent deſign; and every age muſt condemn the inhumanity or avarice [42] of a prince, who, by the trifling ranſom of ſix thouſand pieces of gold, might have prevented the maſſacre of twelve thouſand priſoners in the hands of the chagan. In the juſt fervour of indignation, an order was ſignified to the army of the Danube, that they ſhould ſpare the magazines of the province, and eſtabliſh their winter-quarters in the hoſtile country of the Avars. The meaſure of their grievances was full: they pronounced Maurice unworthy to reign, expelled or ſlaughtered his faithful adherents, and, under the command of Phocas, a ſimple centurion, returned by haſty marches to the neighbourhood of Conſtantinople. After a long ſeries of legal ſucceſſion, the military diſorders of the third century were again revived; yet ſuch was the novelty of the enterpriſe, that the inſurgents were awed by their own raſhneſs. They heſitated to inveſt their favourite with the vacant purple, and while they rejected all treaty with Maurice himſelf, they held a friendly correſpondence with his ſon Theodoſius, and with Germanus

and rebellion.

Election of Phocas, A.D. 602, October.

[42] Theophylact and Theophanes ſeem ignorant of the conſpiracy and avarice of Maurice. Theſe charges, ſo unfavourable to the memory of that emperor, are firſt mentioned by the author of the Paſchal Chronicle (p. 379, 380.); from whence Zonaras (tom. ii. l. xiv. p. 77, 78.) has tranſcribed them. Cedrenus (p. 399.) has followed another computation of the ranſom.

the

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the father-in-law of the royal youth. So obſcure had been the former condition of Phocas, that the emperor was ignorant of the name and character of his rival: but as ſoon as he learned, that the centurion, though bold in ſedition, was timid in the face of danger, "Alas!" cried the deſponding prince, "if he is a coward, he will ſurely be a "murderer."

Revolt of Conſtantinople.

Yet if Conſtantinople had been firm and faithful, the murderer might have ſpent his fury againſt the walls; and the rebel army would have been gradually conſumed or reconciled by the prudence of the emperor. In the games of the circus, which he repeated with unuſual pomp, Maurice diſguiſed with ſmiles of confidence the anxiety of his heart, condeſcended to ſolicit the applauſe of the *factions*, and flattered their pride by accepting from their reſpective tribunes a liſt of nine hundred *blues* and fifteen hundred *greens*, whom he affected to eſteem as the ſolid pillars of his throne. Their treacherous or languid ſupport betrayed his weakneſs and haſtened his fall; the green faction were the ſecret accomplices of the rebels, and the blues recommended lenity and moderation in a conteſt with their Roman brethren. The rigid and parſimonious virtues of Maurice had long ſince alienated the hearts of his ſubjects: as he walked barefoot in a religious proceſſion, he was rudely aſſaulted with ſtones, and his guards were compelled to preſent their iron maces in the defence of his perſon. A fanatic monk ran through the ſtreets with a drawn ſword, denouncing againſt him the wrath

and

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and the ſentence of God, and a vile plebeian, who repreſented his countenance and apparel, was ſeated on an aſs, and purſued by the imprecations of the multitude [43]. The emperor ſuſpected the popularity of Germanus with the ſoldiers and citizens; he feared, he threatened, but he delayed to ſtrike; the patrician fled to the ſanctuary of the church; the people roſe in his defence, the walls were deſerted by the guards, and the lawleſs city was abandoned to the flames and rapine of a nocturnal tumult. In a ſmall bark, the unfortunate Maurice, with his wife and nine children, eſcaped to the Aſiatic ſhore, but the violence of the wind compelled him to land at the church of St. Autonomus [44] near Chalcedon, from whence he diſpatched Theodoſius, his eldeſt ſon, to implore the gratitude and friendſhip of the Perſian monarch. For himſelf, he refuſed to fly: his body was tortured with ſciatic pains [45], his mind was enfeebled by

43 In their clamours againſt Maurice, the people of Conſtantinople branded him with the name of Marcionite or Marcioniſt: a hereſy (ſays Theophylact, l. viii. c. 9.) μετα τινος μωρας ευλαβειας, ευηθης τε και καταγελαστος. Did they only caſt out a vague reproach—or had the emperor really liſtened to ſome obſcure teacher of thoſe ancient Gnoſtics?

44 The church of St. Autonomus (whom I have not the honour to know) was 150 ſtadia from Conſtantinople (Theophylact, l. viii. c. 9.). The port of Eutropius, where Maurice and his children were murdered, is deſcribed by Gyllius (de Boſphoro Thracio, l. iii. c. xi.) as one of the two harbours of Chalcedon.

45 The inhabitants of Conſtantinople were generally ſubject to the νοσοι αρθριτιδες; and Theophylact inſinuates (l. viii. c. 9.), that if it were conſiſtent with the rules of hiſtory, he could aſſign the medical cauſe. Yet ſuch a digreſſion would not have been more impertinent than his inquiry (l. vii. c. 16, 17.) into the annual inundations of the Nile, and all the opinions of the Greek philoſophers on that ſubject.

ſuper-

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ſuperſtition; he patiently awaited the event of the revolution, and addreſſed a fervent and public prayer to the Almighty, that the puniſhment of his ſins might be inflicted in this world rather than in a future life. After the abdication of Maurice, the two factions diſputed the choice of an emperor; but the favourite of the blues was rejected by the jealouſy of their antagoniſts, and Germanus himſelf was hurried along by the crowds, who ruſhed to the palace of Hebdomon, ſeven miles from the city, to adore the majeſty of Phocas the centurion. A modeſt wiſh of reſigning the purple to the rank and merit of Germanus was oppoſed by *his* reſolution, more obſtinate and equally ſincere: the ſenate and clergy obeyed his ſummons, and as ſoon as the patriarch was aſſured of his orthodox belief, he conſecrated the ſucceſsful uſurper in the church of St. John the Baptiſt. On the third day, amidſt the acclamations of a thoughtleſs people, Phocas made his public entry in a chariot drawn by four white horſes: the revolt of the troops was rewarded by a laviſh donative, and the new ſovereign, after viſiting the palace, beheld from his throne the games of the hippodrome. In a diſpute of precedency between the two factions, his partial judgment inclined in favour of the greens. "Remember that Maurice is ſtill alive," reſounded from the oppoſite ſide; and the indiſcreet clamour of the blues admoniſhed and ſtimulated the cruelty of the tyrant. The miniſters of death were diſpatched to Chalcedon: they dragged the emperor from his ſanctuary: and the five ſons of Maurice were ſucceſſively murdered before the

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Death of Maurice and his children, A. D. 602, Nov. 27.

eyes of their agonizing parent. At each ſtroke which he felt in his heart, he found ſtrength to rehearſe a pious ejaculation: "Thou art juſt, O "Lord, and thy judgments are righteous." And ſuch, in the laſt moments, was his rigid attachment to truth and juſtice, that he revealed to the ſoldiers the pious falſehood of a nurſe who preſented her own child in the place of a royal infant [46]. The tragic ſcene was finally cloſed by the execution of the emperor himſelf in the twentieth year of his reign and the ſixty-third of his age. The bodies of the father and his five ſons were caſt into the ſea, their heads were expoſed at Conſtantinople to the inſults or pity of the multitude, and it was not till ſome ſigns of putrefaction had appeared, that Phocas connived at the private burial of theſe venerable remains. In that grave, the faults and errors of Maurice were kindly interred. His fate alone was remembered; and at the end of twenty years, in the recital of the hiſtory of Theophylact, the mournful tale was interrupted by the tears of the audience [47].

Phocas emperor, A. D. 602,

Such tears muſt have flowed in ſecret, and ſuch compaſſion would have been criminal, under the

[46] From this generous attempt, Corneille has deduced the intricate web of his tragedy of *Heraclius*, which requires more than one repreſentation to be clearly underſtood (Corneille de Voltaire, tom. v. p. 300.); and which, after an interval of ſome years, is ſaid to have puzzled the author himſelf (Anecdotes Dramatiques, tom. i. p. 422.).

[47] The revolt of Phocas and death of Maurice are told by Theophylact Simocatta (l. viii. c. 7—12.), the Paſchal Chronicle (p. 379, 380.), Theophanes (Chronograph. p. 238—244.), Zonaras (tom. ii. l. xiv. p. 77—80.), and Cedrenus (p. 399—404.).

reign

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reign of Phocas, who was peaceably acknowledged in the provinces of the Eaſt and Weſt. The images of the emperor and his wife Leontia were expoſed in the Lateran to the veneration of the clergy and ſenate of Rome, and afterwards depoſited in the palace of the Cæſars, between thoſe of Conſtantine and Theodoſius. As a ſubject and a Chriſtian, it was the duty of Gregory to acquieſce in the eſtabliſhed government, but the joyful applauſe with which he ſalutes the fortune of the aſſaſſin, has ſullied, with indelible diſgrace, the character of the ſaint. The ſucceſſor of the apoſtles might have inculcated with decent firmneſs the guilt of blood, and the neceſſity of repentance: he is content to celebrate the deliverance of the people and the fall of the oppreſſor; to rejoice that the piety and benignity of Phocas have been raiſed by Providence to the Imperial throne; to pray that his hands may be ſtrengthened againſt all his enemies; and to expreſs a wiſh, perhaps a prophecy, that, after a long and triumphant reign, he may be transferred from a temporal to an everlaſting kingdom [48]. I have already traced the ſteps of a revolution ſo pleaſing, in Gregory's opinion, both to heaven and earth; and Phocas does not appear leſs hateful in the exerciſe than in the acquiſition of

Nov. 23—A. D. 610, October 4.

[48] Gregor. l. xi. epiſt. 38. indict. vi. Benignitatem veſtræ pietatis ad Imperiale faſtigium perveniſſe gaudemus. Lætentur cœli et exultet terra, et de veſtris benignis actibus univerſæ reipublicæ populus nunc uſque vehementer afflictus hilareſcat, &c. This baſe flattery, the topic of proteſtant invective, is juſtly cenſured by the philoſopher Bayle (Dictionaire Critique, Gregoire I. Not. II. tom. ii. p. 597, 598.). Cardinal Baronius juſtifies the pope at the expence of the fallen emperor.

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His character,

power. The pencil of an impartial hiſtorian has delineated the portrait of a monſter [49]; his diminutive and deformed perſon, the cloſeneſs of his ſhaggy eye-brows, his red hair, his beardleſs chin, and his cheek diſfigured and diſcoloured by a formidable ſcar. Ignorant of letters, of laws, and even of arms, he indulged in the ſupreme rank a more ample privilege of luſt and drunkenneſs, and his brutal pleaſures were either injurious to his ſubjects or diſgraceful to himſelf. Without aſſuming the office of a prince, he renounced the profeſſion of a ſoldier; and the reign of Phocas afflicted Europe with ignominious peace, and Aſia with deſolating war. His ſavage temper was inflamed by paſſion, hardened by fear, exaſperated by reſiſtance or reproach. The flight of Theodoſius to the Perſian court had been intercepted by a rapid purſuit, or a deceitful meſſage: he was beheaded at Nice, and the laſt hours of the young prince were ſoothed by the comforts of religion and the conſciouſneſs of innocence. Yet his phantom diſturbed the repoſe of the uſurper: a whiſper was circulated through the Eaſt, that the ſon of Maurice was ſtill alive: the people expected their avenger, and the widow and daughters of the late emperor would have adopted as their ſon and brother the vileſt of mankind. In the maſſacre of the Imperial family [50], the mercy, or rather the diſcre-

49 The images of Phocas were deſtroyed; but even the malice of his enemies would ſuffer one copy of ſuch a portrait or caricatura (Cedrenus, p. 404.) to eſcape the flames.

50 The family of Maurice is repreſented by Ducange (Familiæ Byzantinæ, p. 106, 107, 108.): his eldeſt ſon Theodoſius had been crowned

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diſcretion, of Phocas had ſpared theſe unhappy females, and they were decently confined to a private houſe. But the ſpirit of the empreſs Conſtantina, ſtill mindful of her father, her huſband, and her ſons, aſpired to freedom and revenge. At the dead of night, ſhe eſcaped to the ſanctuary of St. Sophia; but her tears, and the gold of her aſſociate Germanus, were inſufficient to provoke an inſurrection. Her life was forfeited to revenge, and even to juſtice: but the patriarch obtained and pledged an oath for her ſafety; a monaſtery was allotted for her priſon, and the widow of Maurice accepted and abuſed the lenity of his aſſaſſin. The diſcovery or the ſuſpicion of a ſecond conſpiracy, diſſolved the engagements and rekindled the fury of Phocas. A matron who commanded the reſpect and pity of mankind, the daughter, wife, and mother of emperors, was tortured like the vileſt malefactor, to force a confeſſion of her deſigns and aſſociates; and the empreſs Conſtantina, with her three innocent daughters, was beheaded at Chalcedon, on the ſame ground which had been ſtained with the blood of her huſband and five ſons. After ſuch an example, it would be ſuperfluous to enumerate the names and ſufferings of meaner victims. Their condemnation was ſeldom preceded by the forms of trial, and their puniſhment was embittered by the refinements of cruelty: their eyes were pierced, their tongues

and tyranny.

crowned emperor when he was no more than four years and a half old, and he is always joined with his father in the ſalutations of Gregory. With the Chriſtian daughters, Anaſtaſia and Theocteſte, I am ſurpriſed to find the Pagan name of Cleopatra.

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were torn from the root, the hands and feet were amputated; ſome expired under the laſh, others in the flames, others again were transfixed with arrows; and a ſimple ſpeedy death was mercy which they could rarely obtain. The hippodrome, the ſacred aſylum of the pleaſures and the liberty of the Romans, was polluted with heads and limbs, and mangled bodies; and the companions of Phocas were the moſt ſenſible, that neither his favour, nor their ſervices, could protect them from a tyrant, the worthy rival of the Caligulas and Domitians of the firſt age of the empire [51].

His fall and death, A.D. 610, October 4.

A daughter of Phocas, his only child, was given in marriage to the patrician Criſpus [52], and the *royal* images of the bride and bridegroom were indiſcreetly placed in the circus, by the ſide of the emperor. The father muſt deſire that his poſterity ſhould inherit the fruit of his crimes, but the monarch was offended by this premature and popular aſſociation: the tribunes of the green faction, who accuſed the officious error of their ſculptors, were condemned to inſtant death: their lives were granted to the prayers of the people; but Criſpus might reaſonably doubt, whether a jealous uſurper could forget and pardon his involuntary

[51] Some of the cruelties of Phocas are marked by Theophylact, l. viii. c. 13, 14, 15. George of Piſidia, the poet of Heraclius, ſtyles him (Bell. Avaricum, p. 46. Rome, 1777) της τυραννιδος ὁ δυσκαθεκτος και βιαφθορος δρακων. The latter epithet is juſt—but the corrupter of life was eaſily vanquiſhed.

[52] In the writers, and in the copies of thoſe writers, there is ſuch heſitation between the names of *Priſcus* and *Criſpus* (Ducange, Fam. Byzant. p. 111.), that I have been tempted to identify the ſon-in-law of Phocas with the hero five times victorious over the Avars.

compe-

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competition. The green faction was alienated by the ingratitude of Phocas and the loſs of their privileges; every province of the empire was ripe for rebellion; and Heraclius, exarch of Africa, perſiſted above two years in refuſing all tribute and obedience to the centurion who diſgraced the throne of Conſtantinople. By the ſecret emiſſaries of Criſpus and the ſenate, the independent exarch was ſolicited to ſave and to govern his country: but his ambition was chilled by age, and he reſigned the dangerous enterpriſe to his ſon Heraclius, and to Nicetas, the ſon of Gregory his friend and lieutenant. The powers of Africa were armed by the two adventurous youths; they agreed that the one ſhould navigate the fleet from Carthage to Conſtantinople, that the other ſhould lead an army through Egypt and Aſia, and that the Imperial purple ſhould be the reward of diligence and ſucceſs. A faint rumour of their undertaking was conveyed to the ears of Phocas, and the wife and mother of the younger Heraclius were ſecured as the hoſtages of his faith: but the treacherous art of Criſpus extenuated the diſtant peril, the means of defence were neglected or delayed, and the tyrant ſupinely ſlept till the African navy caſt anchor in the Helleſpont. Their ſtandard was joined at Abydus by the fugitives and exiles who thirſted for revenge; the ſhips of Heraclius, whoſe lofty maſts were adorned with the holy ſymbols of religion [53], ſteered their triumphant courſe through the

53 According to Theophanes, χιβωτια, and εικονα θεομητορος. Cedrenus adds an αχειροποιητον εικονα του κυριου, which Heraclius bore as a banner in the firſt Perſian expedition. See George Piſid. Acroas I.

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the Propontis; and Phocas beheld from the windows of the palace, his approaching and inevitable fate. The green faction was tempted, by gifts and promiſes, to oppoſe a feeble and fruitleſs reſiſtance to the landing of the Africans; but the people, and even the guards, were determined by the well-timed defection of Criſpus; and the tyrant was ſeized by a private enemy, who boldly invaded the ſolitude of the palace. Stripped of the diadem and purple, clothed in a vile habit, and loaded with chains, he was tranſported in a ſmall boat to the Imperial galley of Heraclius, who reproached him with the crimes of his abominable reign. "Wilt thou govern better?" were the laſt words of the deſpair of Phocas. After ſuffering each variety of inſult and torture, his head was ſevered from his body, the mangled trunk was caſt into the flames, and the ſame treatment was inflicted on the ſtatues of the vain uſurper and the ſeditious banner of the green faction. The voice of the clergy, the ſenate, and the people, invited Heraclius to aſcend the throne which he had purified from guilt and ignominy; after ſome graceful heſitation, he yielded to their entreaties. His coronation was accompanied by that of his wife Eudoxia; and their poſterity, till the fourth generation, continued to reign over the empire of the Eaſt. The voyage of Heraclius had been eaſy and proſperous, the tedious march of Nicetas was not accompliſhed before the deciſion of the con-

Reign of Heraclius, A.D. 610, Oct. 5— A.D. 642, Feb. 11.

140. The manufacture ſeems to have flouriſhed; but Foggini, the Roman editor (p. 26.), is at a loſs to determine whether this picture was an original or a copy.

teſt;

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teſt: but he ſubmitted without a murmur to the fortune of his friend, and his laudable intentions were rewarded with an equeſtrian ſtatue, and a daughter of the emperor. It was more difficult to truſt the fidelity of Criſpus, whoſe recent ſervices were recompenſed by the command of the Cappadocian army. His arrogance ſoon provoked, and ſeemed to excuſe, the ingratitude of his new ſovereign. In the preſence of the ſenate, the ſon-in-law of Phocas was condemned to embrace the monaſtic life; and the ſentence was juſtified by the weighty obſervation of Heraclius, that the man who had betrayed his father, could never be faithful to his friend [54].

Even after his death the republic was afflicted by the crimes of Phocas, which armed with a pious cauſe the moſt formidable of her enemies. According to the friendly and equal forms of the Byzantine and Perſian courts, he announced his exaltation to the throne; and his ambaſſador Lilius, who had preſented him with the heads of Maurice and his ſons, was the beſt qualified to deſcribe the circumſtances of the tragic ſcene [55]. However it might be varniſhed by fiction or ſophiſtry, Choſ-

Choſroes invades the Roman empire, A.D. 603, &c.

54 See the tyranny of Phocas and the elevation of Heraclius, in Chron. Paſchal. p. 380—383. Theophanes, p. 242—250. Nicephorus, p. 3—7. Cedrenus, p. 404—407. Zonaras, tom. ii. l. xiv. p. 80—82.

55 Theophylact, l. viii. c. 15. The life of Maurice was compoſed about the year 628 (l. viii. c. 13.) by Theophylact Simocatta, expræfect, a native of Egypt. Photius, who gives an ample extract of the work (cod. lxv. p. 81—100.), gently reproves the affectation and allegory of the ſtyle. His preface is a dialogue between Philoſophy and Hiſtory; they ſeat themſelves under a plane-tree, and the latter touches her lyre,

roes

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roes turned with horror from the aſſaſſin, impriſoned the pretended envoy, diſclaimed the uſurper, and declared himſelf the avenger of his father and benefactor. The ſentiments of grief and reſentment which humanity would feel, and honour would dictate, promoted, on this occaſion, the intereſt of the Perſian king; and his intereſt was powerfully magnified by the national and religious prejudices of the Magi and ſatraps. In a ſtrain of artful adulation, which aſſumed the language of freedom, they preſumed to cenſure the exceſs of his gratitude and friendſhip for the Greeks; a nation with whom it was dangerous to conclude either peace or alliance; whoſe ſuperſtition was devoid of truth and juſtice, and who muſt be incapable of any virtue, ſince they could perpetrate the moſt atrocious of crimes, the impious murder of their ſovereign [56]. For the crime of an ambitious centurion, the nation which he oppreſſed was chaſtiſed with the calamities of war; and the ſame calamities, at the end of twenty years, were retaliated and redoubled on the heads of the Perſians [57]. The ge-

56 Chriſtianis nec pactum eſſe, nec fidem nec fœdus .... quod ſi ulla illis fides fuiſſet, regem ſuum non occidiſſent. Eutych. Annales, tom. ii. p. 211. verſ. Pocock.

57 We muſt now, for ſome ages, take our leave of contemporary hiſtorians, and deſcend, if it be a deſcent, from the affectation of rhetoric to the rude ſimplicity of chronicles and abridgments. Thoſe of Theophanes (Chronograph. p. 244—279.) and Nicephorus (p. 3—16.) ſupply a regular, but imperfect, ſeries of the Perſian war; and for any additional facts I quote my ſpecial authorities. Theophanes, a courtier who became a monk, was born A. D. 748; Nicephorus, patriarch of Conſtantinople, who died A. D. 829, was ſomewhat younger: they both ſuffered in the cauſe of images. Hankius, de Scriptoribus Byzantinis, p. 200—246.

neral who had reſtored Choſroes to the throne ſtill commanded in the Eaſt; and the name of Narſes was the formidable ſound with which the Aſſyrian mothers were accuſtomed to terrify their infants. It is not improbable, that a native ſubject of Perſia ſhould encourage his maſter and his friend to deliver and poſſeſs the provinces of Aſia. It is ſtill more probable, that Choſroes ſhould animate his troops by the aſſurance that the ſword which they dreaded the moſt would remain in its ſcabbard, or be drawn in their favour. The hero could not depend on the faith of a tyrant; and the tyrant was conſcious how little he deſerved the obedience of an hero: Narſes was removed from his military command; he reared an independent ſtandard at Hierapolis in Syria: he was betrayed by fallacious promiſes, and burnt alive in the market-place of Conſtantinople. Deprived of the only chief whom they could fear or eſteem, the bands which he had led to victory were twice broken by the cavalry, trampled by the elephants, and pierced by the arrows of the Barbarians; and a great number of the captives were beheaded on the field of battle by the ſentence of the victor, who might juſtly condemn theſe ſeditious mercenaries as the authors or accomplices of the death of Maurice. Under the reign of Phocas, the fortifications of Merdin, Dara, Amida, and Edeſſa, were ſucceſſively beſieged, reduced, and deſtroyed, by the Perſian monarch: he paſſed the Euphrates, occupied the Syrian cities, Hierapolis, Chalcis, and Berrhæa or Aleppo, and ſoon encompaſſed the walls of Antioch with his irreſiſtible arms. The rapid tide of ſucceſs diſcloſes

His conqueſt of Syria, A.D. 611.

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cloſes the decay of the empire, the incapacity of Phocas, and the diſaffection of his ſubjects; and Choſroes provided a decent apology for their ſubmiſſion or revolt, by an impoſtor who attended his camp as the ſon of Maurice [58] and the lawful heir of the monarchy.

The firſt intelligence from the Eaſt which Heraclius received [59], was that of the loſs of Antioch; but the aged metropolis, ſo often overturned by earthquakes and pillaged by the enemy, could ſupply but a ſmall and languid ſtream of treaſure and blood. The Perſians were equally ſucceſsful and more fortunate in the ſack of Cæſarea, the capital of Cappadocia; and as they advanced beyond the ramparts of the frontier, the boundary of ancient war, they found a leſs obſtinate reſiſtance and a more plentiful harveſt. The pleaſant vale of Damaſcus has been adorned in every age with a royal city: her obſcure felicity has hitherto eſcaped the hiſtorian of the Roman empire: but Choſroes repoſed his troops in the paradiſe of Damaſcus be-

58 The Perſian hiſtorians have been themſelves deceived; but Theophanes (p. 244.) accuſes Choſroes of the fraud and falſehood; and Eutychius believes (Annal. tom. ii. p. 211.) that the ſon of Maurice, who was ſaved from the aſſaſſins, lived and died a monk on mount Sinai.

59 Eutychius dates all the loſſes of the empire under the reign of Phocas, an error which ſaves the honour of Heraclius, whom he brings not from Carthage, but Salonica, with a fleet laden with vegetables for the relief of Conſtantinople (Annal. tom. ii. p. 223, 224.). The other Chriſtians of the Eaſt, Barhebræus (apud Aſſeman, Bibliothec. Oriental. tom. iii. p. 412, 413.), Elmacin (Hiſt. Saracen. p. 13—16.), Abulpharagius (Dynaſt. p. 98, 99.), are more ſincere and accurate. The years of the Perſian war are diſpoſed in the chronology of Pagi.

fore

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of Paleſtine, A.D. 614.

fore he aſcended the hills of Libanus, or invaded the cities of the Phœnician coaſt. The conqueſt of Jeruſalem [60], which had been meditated by Nuſhirvan, was atchieved by the zeal and avarice of his grandſon; the ruin of the proudeſt monument of Chriſtianity was vehemently urged by the intolerant ſpirit of the Magi; and he could enliſt, for this holy warfare, an army of ſix and twenty thouſand Jews, whoſe furious bigotry might compenſate, in ſome degree, for the want of valour and diſcipline. After the reduction of Galilee, and the region beyond the Jordan, whoſe reſiſtance appears to have delayed the fate of the capital, Jeruſalem itſelf was taken by aſſault. The ſepulchre of Chriſt, and the ſtately churches of Helena and Conſtantine, were conſumed, or at leaſt damaged, by the flames; the devout offerings of three hundred years were rifled in one ſacrilegious day; the patriarch Zachariah, and the *true croſs*, were tranſported into Perſia; and the maſſacre of ninety thouſand Chriſtians is imputed to the Jews and Arabs who ſwelled the diſorder of the Perſian march. The fugitives of Paleſtine were entertained at Alexandria by the charity of John the archbiſhop, who is diſtinguiſhed among a crowd of ſaints by the epithet of *almſgiver* [61]: and the revenues of the church, with a treaſure

[60] On the conqueſt of Jeruſalem, an event ſo intereſting to the church, ſee the Annals of Eutychius (tom. ii. p. 212—223.) and the lamentations of the monk Antiochus (apud Baronium, Annal. Eccleſ. A. D. 614, N° 16—26.), whoſe one hundred and twenty-nine homilies are ſtill extant, if what no one reads may be ſaid to be extant.

[61] The life of this worthy ſaint is compoſed by Leontius, a contemporary biſhop; and I find in Baronius (Annal. Eccleſ. A. D. 610.

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treaſure of three hundred thouſand pounds, were reſtored to the true proprietors, the poor of every country and every denomination. But Egypt itſelf, the only province which had been exempt, ſince the time of Diocletian, from foreign and domeſtic war, was again ſubdued by the ſucceſſors of Cyrus. Peluſium, the key of that impervious country, was ſurpriſed by the cavalry of the Perſians: they paſſed, with impunity, the innumerable channels of the Delta, and explored the long valley of the Nile, from the pyramids of Memphis to the confines of Æthiopia. Alexandria might have been relieved by a naval force, but the archbiſhop and the præfect embarked for Cyprus; and Choſroes entered the ſecond city of the empire, which ſtill preſerved a wealthy remnant of induſtry and commerce. His weſtern trophy was erected, not on the walls of Carthage [62], but in the neighbourhood of Tripoli: the Greek colonies of Cyrene were finally extirpated; and the conqueror, treading in the footſteps of Alexander, returned in triumph through the ſands of the Lybian deſert. In the ſame campaign, another army advanced from the Euphrates to the Thracian Boſphorus; Chalcedon ſurrendered after a long ſiege, and a Perſian camp was maintained above ten years in the preſence of Conſtantinople. The ſea-coaſt of

of Egypt, A.D. 616.

of Aſia Minor, A.D. 616, &c.

610. N° 10, &c.) and Fleury (tom. viii. p. 235—242.) ſufficient extracts of this edifying work.

62 The error of Baronius, and many others who have carried the arms of Choſroes to Carthage inſtead of Chalcedon, is founded on the near reſemblance of the Greek words Καλχηδονα and Καρχηδονα, in the text of Theophanes, &c. which have been ſometimes confounded by tranſcribers and ſometimes by critics.

Pontus,

Pontus, the city of Ancyra, and the isle of Rhodes, are enumerated among the last conquests of the great king; and if Chosroes had possessed any maritime power, his boundless ambition would have spread slavery and desolation over the provinces of Europe.

His reign and magnificence.

From the long-disputed banks of the Tigris and Euphrates, the reign of the grandson of Nushirvan was suddenly extended to the Hellespont and the Nile, the ancient limits of the Persian monarchy. But the provinces, which had been fashioned by the habits of six hundred years to the virtues and vices of the Roman government, supported with reluctance the yoke of the Barbarians. The idea of a republic was kept alive by the institutions, or at least by the writings, of the Greeks and Romans, and the subjects of Heraclius had been educated to pronounce the words of liberty and law. But it has always been the pride and policy of Oriental princes, to display the titles and attributes of their omnipotence; to upbraid a nation of slaves with their true name and abject condition, and to enforce, by cruel and insolent threats, the rigour of their absolute commands. The Christians of the East were scandalized by the worship of fire, and the impious doctrine of the two principles: the Magi were not less intolerant than the bishops, and the martyrdom of some native Persians, who had deserted the religion of Zoroaster [63], was conceived to

[63] The *genuine* acts of St. Anastasius are published in those of the viiith general council, from whence Baronius (Annal. Eccles. A. D. 614, 626, 627.) and Butler (Lives of the Saints, vol. i. p. 242—248.)

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to be the prelude of a fierce and general perſecution. By the oppreſſive laws of Juſtinian, the adverſaries of the church were made the enemies of the ſtate; the alliance of the Jews, Neſtorians, and Jacobites, had contributed to the ſucceſs of Choſroes, and his partial favour to the ſectaries provoked the hatred and fears of the Catholic clergy. Conſcious of their fear and hatred, the Perſian conqueror governed his new ſubjects with an iron ſceptre; and as if he ſuſpected the ſtability of his dominion, he exhauſted their wealth by exorbitant tributes and licentious rapine, deſpoiled or demoliſhed the temples of the Eaſt, and tranſported to his hereditary realms the gold, the ſilver, the precious marbles, the arts, and the artiſts of the Aſiatic cities. In the obſcure picture of the calamities of the empire [64], it is not eaſy to diſcern the figure of Choſroes himſelf, to ſeparate his actions from thoſe of his lieutenants, or to aſcertain his perſonal merit in the general blaze of glory and magnificence. He enjoyed with oſtentation the fruits of victory, and frequently retired from the hardſhips of war to the luxury of the palace. But in the ſpace of twenty-four years, he was deterred by ſuperſtition or reſentment from approaching the gates of Cteſiphon: and his favourite reſidence of Artemita or Daſtagerd, was ſituate beyond the Tigris, about

248.) have taken their accounts. The holy martyr deſerted from the Perſian to the Roman army, became a monk at Jeruſalem, and inſulted the worſhip of the Magi, which was then eſtabliſhed at Cæſarea in Paleſtine.

64 Abulpharagius, Dynaſt. p. 99. Elmacin, Hiſt. Saracen. p. 14.

ſixty

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ſixty miles to the north of the capital [65]. The adjacent paſtures were covered with flocks and herds: the paradiſe or park was repleniſhed with pheaſants, peacocks, oſtriches, roebucks, and wild boars, and the noble game of lions and tygers was ſometimes turned looſe for the bolder pleaſures of the chaſe. Nine hundred and ſixty elephants were maintained for the uſe or ſplendour of the great king: his tents and baggage were carried into the field by twelve thouſand great camels and eight thouſand of a ſmaller ſize [66]: and the royal ſtables were filled with ſix thouſand mules and horſes, among whom the names of Shebdiz and Barid are renowned for their ſpeed or beauty. Six thouſand guards ſucceſſively mounted before the palace gate; the ſervice of the interior apartments was performed by twelve thouſand ſlaves, and in the number of three thouſand virgins, the faireſt of Aſia, ſome happy concubine might conſole her maſter for the age or the indifference of Sira. The various treaſures of gold, ſilver, gems, ſilk, and aromatics, were depoſited in an hundred ſubterraneous vaults; and the chamber *Badaverd* denoted the accidental gift of the winds which had wafted the ſpoils of Heraclius into one of the Syrian harbours of his rival. The voice of flattery, and perhaps of fiction, is not

65 D'Anville, Mem. de l'Academie des Inſcriptions, tom. xxxii. p. 568—571.

66 The difference between the two races conſiſts in one or two humps; the dromedary has only one; the ſize of the proper camel is larger; the country he comes from, Turkeſtan or Bactriana; the dromedary is confined to Arabia and Africa. Buffon, Hiſt. Naturelle, tom. xi. p. 211, &c. Ariſtot. Hiſt. Animal. tom. i. l. ii. c. 1. tom. ii. p. 185.

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aſhamed to compute the thirty thouſand rich hangings that adorned the walls; the forty thouſand columns of ſilver, or more probably of marble, and plated wood, that ſupported the roof; and the thouſand globes of gold ſuſpended in the dome to imitate the motions of the planets and the conſtellations of the zodiac[67]. While the Perſian monarch contemplated the wonders of his art and power, he received an epiſtle from an obſcure citizen of Mecca, inviting him to acknowledge Mahomet as the apoſtle of God. He rejected the invitation, and tore the epiſtle. "It is thus," exclaimed the Arabian prophet, "that God will tear "the kingdom, and reject the ſupplications of "Choſroes[68]." Placed on the verge of the two great empires of the Eaſt, Mahomet obſerved with ſecret joy, the progreſs of their mutual deſtruction, and in the midſt of the Perſian triumphs, he ventured to foretell, that before many years ſhould elapſe, victory would again return to the banners of the Romans[69].

At

[67] Theophanes, Chronograph. p. 268. D'Herbelot, Bibliotheque Orientale, p. 997. The Greeks deſcribe the decay, the Perſians the ſplendour, of Daſtagérd; but the former ſpeak from the modeſt witneſs of the eye, the latter from the vague report of the ear.

[68] The hiſtorians of Mahomet, Abulfeda (in Vit. Mohammed, p. 92, 93.) and Gagnier (Vie de Mahomet, tom. ii. p. 247.), date this embaſſy in the viiith year of the Hegira, which commences A. D. 628, May 11. Their chronology is erroneous, ſince Choſroes died in the month of February of the ſame year (Pagi, Critica, tom. ii. p. 779.). The count de Boulainvilliers (Vie de Mahomed, p. 327, 328.) places this embaſſy about A. D. 615, ſoon after the conqueſt of Paleſtine. Yet Mahomet would ſcarcely have ventured ſo ſoon on ſo bold a ſtep.

[69] See the xxxth chapter of the Koran, entitled *the Greeks*. Our honeſt and learned tranſlator Sale (p. 330, 331.) fairly ſtates this con-

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Diſtreſs of Heraclius, A. D. 610—622.

At the time when this prediction is ſaid to have been delivered, no prophecy could be more diſtant from its accompliſhment, ſince the firſt twelve years of Heraclius announced the approaching diſſolution of the empire. If the motives of Choſroes had been pure and honourable, he muſt have ended the quarrel with the death of Phocas, and he would have embraced as his beſt ally, the fortunate African who had ſo generouſly avenged the injuries of his benefactor Maurice. The proſecution of the war revealed the true character of the Barbarian; and the ſuppliant embaſſies of Heraclius, to beſeech his clemency, that he would ſpare the innocent, accept a tribute, and give peace to the world, were rejected with contemptuous ſilence or inſolent menace. Syria, Egypt, and the provinces of Aſia, were ſubdued by the Perſian arms, while Europe, from the confines of Iſtria to the long wall of Thrace, was oppreſſed by the Avars, unſatiated with the blood and rapine of the Italian war. They had coolly maſſacred their male captives in the ſacred field of Pannonia; the women and children were reduced to ſervitude, and the nobleſt virgins were abandoned to the promiſcuous luſt of the Barbarians. The amorous matron who opened the gates of Friuli paſſed a ſhort night in the arms of her royal lover; the next evening, Romilda was condemned to the embraces of twelve Avars, and the third day the Lombard princeſs was impaled

conjecture, gueſs, wager, of Mahomet; but Boulainvilliers (p. 329—344.), with wicked intentions, labours to eſtabliſh this evident prophecy of a future event, which muſt, in his opinion, embarraſs the Chriſtian polemics.

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in the ſight of the camp, while the chagan obſerved, with a cruel ſmile, that ſuch a huſband was the fit recompenſe of her lewdneſs and perfidy[70]. By theſe implacable enemies, Heraclius, on either ſide, was inſulted and beſieged: and the Roman empire was reduced to the walls of Conſtantinople, with the remnant of Greece, Italy, and Africa, and ſome maritime cities, from Tyre to Trebizond, of the Aſiatic coaſt. After the loſs of Egypt, the capital was afflicted by famine and peſtilence; and the emperor, incapable of reſiſtance, and hopeleſs of relief, had reſolved to transfer his perſon and government to the more ſecure reſidence of Carthage. His ſhips were already laden with the treaſures of the palace, but his flight was arreſted by the patriarch, who armed the powers of religion in the defence of his country, led Heraclius to the altar of St. Sophia, and extorted a ſolemn oath, that he would live and die with the people whom God had entruſted to his care. The chagan was encamped in the plains of Thrace, but he diſſembled his perfidious deſigns, and ſolicited an interview with the emperor near the town of Heraclea. Their reconciliation was celebrated with equeſtrian games, the ſenate and people in their gayeſt apparel reſorted to the feſtival of peace, and the Avars beheld with envy and deſire, the ſpectacle of Roman luxury. On a ſudden, the hippodrome was encompaſſed by the Scythian cavalry, who had preſſed their ſecret and nocturnal

70 Paul Warnefrid, de Geſtis Langobardorum, l. iv. c. 38. 42. Muratori, Annali d'Italia, tom. v. p. 305, &c.

march:

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march: the tremendous ſound of the chagan's whip gave the ſignal of the aſſault; and Heraclius wrapping his diadem round his arm, was ſaved, with extreme hazard, by the fleetneſs of his horſe. So rapid was the purſuit, that the Avars almoſt entered the golden gate of Conſtantinople with the flying crowds [71]; but the plunder of the ſuburbs rewarded their treaſon, and they tranſported beyond the Danube two hundred and ſeventy thouſand captives. On the ſhore of Chalcedon, the emperor held a ſafer conference with a more honourable foe, who, before Heraclius deſcended from his galley, ſaluted with reverence and pity the majeſty of the purple. The friendly offer of Sain the Perſian general, to conduct an embaſſy to the preſence of the great king, was accepted with the warmeſt gratitude, and the prayer for pardon and peace was humbly preſented by the prætorian præfect, the præfect of the city, and one of the firſt eccleſiaſtics of the patriarchal church [72]. But the lieutenant of Choſroes had fatally miſtaken the intentions of his maſter. "It was not an em- "baſſy," ſaid the tyrant of Aſia, "it was the "perſon of Heraclius, bound in chains, that he "ſhould have brought to the foot of my throne. "I will never give peace to the emperor of Rome

He ſolicits peace.

[71] The Paſchal Chronicle, which ſometimes introduces fragments of hiſtory into a barren liſt of names and dates, gives the beſt account of the treaſon of the Avars, p. 389, 390. The number of captives is added by Nicephorus.

[72] Some original pieces, ſuch as the ſpeech or letter of the Roman ambaſſadors (p. 386—388.), likewiſe conſtitute the merit of the Paſchal Chronicle, which was compoſed, perhaps at Alexandria, under the reign of Heraclius.

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" till he has abjured his crucified God, and em-
" braced the worſhip of the ſun." Sain was flayed alive, according to the inhuman practice of his country; and the ſeparate and rigorous confinement of the ambaſſadors, violated the law of nations and the faith of an expreſs ſtipulation. Yet the experience of ſix years at length perſuaded the Perſian monarch to renounce the conqueſt of Conſtantinople, and to ſpecify the annual tribute or ranſom of the Roman empire: a thouſand talents of gold, a thouſand talents of ſilver, a thouſand ſilk robes, a thouſand horſes, and a thouſand virgins. Heraclius ſubſcribed theſe ignominious terms, but the time and ſpace which he obtained to collect ſuch treaſures from the poverty of the Eaſt, was induſtriouſly employed in the preparations of a bold and deſperate attack.

His preparations for war, A. D. 621.

Of the characters conſpicuous in hiſtory, that of Heraclius is one of the moſt extraordinary and inconſiſtent. In the firſt and the laſt years of a long reign, the emperor appears to be the ſlave of ſloth, of pleaſure, or of ſuperſtition, the careleſs and impotent ſpectator of the public calamities. But the languid miſts of the morning and evening are ſeparated by the brightneſs of the meridian ſun: the Arcadius of the palace, aroſe the Cæſar of the camp; and the honour of Rome and Heraclius was glorioufly retrieved by the exploits and trophies of ſix adventurous campaigns. It was the duty of the Byzantine hiſtorians to have revealed the cauſes of his ſlumber and vigilance. At this diſtance, we can only conjecture that he was endowed with more

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more perſonal courage than political reſolution; that he was detained by the charms and perhaps the arts of his niece Martina, with whom, after the death of Eudocia, he contracted an inceſtuous marriage [73]; and that he yielded to the baſe advice of the counſellors, who urged as a fundamental law, that the life of the emperor ſhould never be expoſed in the field [74]. Perhaps he was awakened by the laſt inſolent demand of the Perſian conqueror; but at the moment when Heraclius aſſumed the ſpirit of an hero, the only hopes of the Romans were drawn from the viciſſitudes of fortune, which might threaten the proud proſperity of Choſroes, and muſt be favourable to thoſe who had attained the loweſt period of depreſſion [75]. To provide for the expences of war, was the firſt care of the emperor; and for the purpoſe of collecting the tribute, he was allowed to ſolicit the benevolence of the Eaſtern provinces. But the revenue

73 Nicephorus (p. 10, 11.), who brands this marriage with the names of *αθεσμον* and *αθεμιτον*, is happy to obſerve that of two ſons, its inceſtuous fruit, the elder was marked by Providence with a ſtiff neck, the younger with the loſs of hearing.

74 George of Piſidia (Acroaſ. i. 112—125. p. 5.), who ſtates the opinions, acquits the puſillanimous counſellors of any ſiniſter views. Would he have excuſed the proud and contemptuous admonition of Criſpus? *Επιθωπταζων ουκ εξον βασιλει ϕασκει καταλιμπανειν βασιλεια, και τοις πορρω επιχωριαζειν δυναμεσιν.*

75 *Ει τας επ' ακρον ηρμενας ευξιας*
Εσφαλμενας λεγουσιν ουκ απεικοτως
Κεισθω το λοιπον εν κακοις τα Περσιδος
Αντιτροφως δε, &c. George Piſid. Acroaſ. i. 51, &c. p. 4.
The Orientals are not leſs fond of remarking this ſtrange viſſicitude; and I remember ſome ſtory of Khoſrou Parviz, not very unlike the ring of Polycrates of Samos.

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no longer flowed in the uſual channels, the credit of an arbitrary prince is annihilated by his power; and the courage of Heraclius was firſt diſplayed in daring to borrow the conſecrated wealth of churches, under the ſolemn vow of reſtoring, with uſury, whatever he had been compelled to employ in the ſervice of religion and of the empire. The clergy themſelves appear to have ſympathiſed with the public diſtreſs, and the diſcreet patriarch of Alexandria, without admitting the precedent of ſacrilege, aſſiſted his ſovereign by the miraculous or ſeaſonable revelation of a ſecret treaſure [76]. Of the ſoldiers who had conſpired with Phocas, only two were found to have ſurvived the ſtroke of time and of the Barbarians [77]; their loſs, even of theſe ſeditious veterans, was imperfectly ſupplied by the new levies of Heraclius, and the gold of the ſanctuary united, in the ſame camp, the names, and arms, and languages of the Eaſt and Weſt. He would have been content with the neutrality of the Avars; and his friendly entreaty, that the chagan would act, not as the enemy but as the guardian of the empire, was accompanied with a more perſuaſive donative of two hundred thouſand pieces of gold.

[76] Baronius gravely relates this diſcovery, or rather tranſmutation, of barrels, not of honey, but of gold (Annal. Eccleſ. A. D. 620, N° 3, &c.). Yet the loan was arbitrary, ſince it was collected by ſoldiers, who were ordered to leave the patriarch of Alexandria no more than one hundred pounds of gold. Nicephorus (p. 11.), two hundred years afterwards, ſpeaks with ill-humour of this contribution, which the church of Conſtantinople might ſtill feel.

[77] Theophylact Simocatta, l. viii. c. 12. This circumſtance need not excite our ſurpriſe. The muſter-roll of a regiment, even in time of peace, is renewed in leſs than twenty or twenty-five years.

Two

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Two days after the feſtival of Eaſter, the emperor, exchanging his purple for the ſimple garb of a penitent and warrior [78], gave the ſignal of his departure. To the faith of the people Heraclius recommended his children; the civil and military powers were veſted in the moſt deſerving hands, and the diſcretion of the patriarch and ſenate was authoriſed to ſave or ſurrender the city, if they ſhould be oppreſſed in his abſence by the ſuperior forces of the enemy.

Firſt expedition of Heraclius againſt the Perſians, A. D. 622.

The neighbouring heights of Chalcedon were covered with tents and arms: but if the new levies of Heraclius had been raſhly led to the attack, the victory of the Perſians in the ſight of Conſtantinople might have been the laſt day of the Roman empire. As imprudent would it have been to advance into the provinces of Aſia, leaving their innumerable cavalry to intercept his convoys, and continually to hang on the laſſitude and diſorder of his rear. But the Greeks were ſtill maſters of the ſea; a fleet of gallies, tranſports, and ſtoreſhips, was aſſembled in the harbour, the Barbarians conſented to embark; a ſteady wind carried them through the Helleſpont; the weſtern and ſouthern coaſt of Aſia Minor lay on their left-hand; the ſpirit of their chief was firſt diſplayed in a ſtorm; and even the eunuchs of his train were excited to ſuffer and to work by the example of their maſter. He landed his troops on the confines of Syria and Cilicia, in the gulf of Scanderoon, where the

[78] He changed his *purple*, for *black*, buſkins, and dyed them *red* in the blood of the Perſians (Georg. Piſid. Aeroaſ. iii. 118. 121, 122. See the Notes of Foggini, p. 35.).

coaſt

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coaſt ſuddenly turns to the ſouth [79]; and his diſcernment was expreſſed in the choice of this important poſt [80]. From all ſides, the ſcattered garriſons of the maritime cities and the mountains might repair with ſpeed and ſafety to his Imperial ſtandard. The natural fortifications of Cilicia protected and even concealed the camp of Heraclius, which was pitched near Iſſus, on the ſame ground where Alexander had vanquiſhed the hoſt of Darius. The angle which the emperor occupied, was deeply indented into a vaſt ſemicircle of the Aſiatic, Armenian, and Syrian provinces; and to whatſoever point of the circumference he ſhould direct his attack, it was eaſy for him to diſſemble his own motions and to prevent thoſe of the enemy. In the camp of Iſſus, the Roman general reformed the ſloth and diſorder of the veterans, and educated the new recruits in the knowledge and prac-

79 George of Piſidia (Acroaſ. ii. 10, p. 8.) has fixed this important point of the Syrian and Cilician gates. They are elegantly deſcribed by Xenophon, who marched through them a thouſand years before. A narrow paſs of three ſtadia between ſteep high rocks (πετραι ηλιβατοι) and the Mediterranean, was cloſed at each end by ſtrong gates, impregnable to the land (παρεκλυσιν εκ τῆ βιᾳ), acceſſible by ſea (Anabaſis, l. i. p. 35, 36. with Hutchinſon's Geographical Diſſertation, p. vi.). The gates were thirty-five parafangs, or leagues, from Tarſus (Anabaſis, l. i. p. 33, 34.), and eight or ten from Antioch. (Compare Itinerar. Weſſeling. p. 580, 581. Schultens, Index Geograph. ad calcem Vit. Saladin. p. 9. Voyage en Turquie et en Perſe, par M. Otter, tom. i. p. 78, 79.)

80 Heraclius might write to a friend in the modeſt words of Cicero: "Caſtra habuimus ea ipſa quæ contra Darium habuerat apud Iſſum Alexander, imperator haud paullo melior quam aut tu aut ego." Ad Atticum, v. 20. Iſſus, a rich and flouriſhing city in the time of Xenophon, was ruined by the proſperity of Alexandria or Scanderoon, on the other ſide of the bay.

tice of military virtue. Unfolding the miraculous image of Chriſt, he urged them to *revenge* the holy altars which had been profaned by the worſhippers of fire; addreſſing them by the endearing appellations of ſons and brethren, he deplored the public and private wrongs of the republic. The ſubjects of a monarch were perſuaded that they fought in the cauſe of freedom; and a ſimilar enthuſiaſm was communicated to the foreign mercenaries, who muſt have viewed with equal indifference the intereſt of Rome and of Perſia. Heraclius himſelf, with the ſkill and patience of a centurion, inculcated the leſſons of the ſchool of tactics, and the ſoldiers were aſſiduouſly trained in the uſe of their weapons, and the exerciſes and evolutions of the field. The cavalry and infantry in light or heavy armour were divided into two parties; the trumpets were fixed in the centre, and their ſignals directed the march, the charge, the retreat, or purſuit; the direct or oblique order, the deep or extended phalanx; to repreſent in fictitious combat the operations of genuine war. Whatever hardſhip the emperor impoſed on the troops, he inflicted with equal ſeverity on himſelf; their labour, their diet, their ſleep, were meaſured by the inflexible rules of diſcipline; and, without deſpiſing the enemy, they were taught to repoſe an implicit confidence in their own valour and the wiſdom of their leader. Cilicia was ſoon encompaſſed with the Perſian arms; but their cavalry heſitated to enter the defiles of mount Taurus, till they were circumvented by the evolutions of Heraclius, who inſenſibly gained their rear,

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rear, whilſt he appeared to preſent his front in order of battle. By a falſe motion, which ſeemed to threaten Armenia, he drew them, againſt their wiſhes, to a general action. They were tempted by the artful diſorder of his camp; but when they advanced to combat, the ground, the ſun, and the expectation of both armies, were unpropitious to the Barbarians; the Romans ſucceſsfully repeated their tactics in a field of battle [81], and the event of the day declared to the world that the Perſians were not invincible, and that an hero was inveſted with the purple. Strong in victory and fame, Heraclius boldly aſcended the heights of mount Taurus, directed his march through the plains of Cappadocia, and eſtabliſhed his troops for the winter ſeaſon in ſafe and plentiful quarters on the banks of the river Halys [82]. His ſoul was ſuperior to the vanity of entertaining Conſtantinople with an imperfect triumph: but the preſence of the emperor was indiſpenſably required to ſoothe the reſtleſs and rapacious ſpirit of the Avars.

His ſecond expedition, A. D. 623, 624, 625.

Since the days of Scipio and Hannibal, no bolder enterpriſe has been attempted than that which Heraclius atchieved for the deliverance of the

[81] Foggini (Annotat. p. 31.) ſuſpects that the Perſians were deceived by the φαλαγξ πεπλεγμενη of Ælian (Tactic. c. 48.), an intricate ſpiral motion of the army. He obſerves (p. 28.) that the military deſcriptions of George of Piſidia are tranſcribed in the Tactics of the emperor Leo.

[82] George of Piſidia, an eye-witneſs (Acroaſ. ii. 122, &c.), deſcribed, in three *acroaſeis* or cantos, the firſt expedition of Heraclius. The poem has been lately (1777) publiſhed at Rome; but ſuch vague and declamatory praiſe is far from correſponding with the ſanguine hopes of Pagi, D'Anville, &c.

empire.

empire [83]. He permitted the Perſians to oppreſs for a while the provinces, and to inſult with impunity the capital of the Eaſt; while the Roman emperor explored his perilous way through the Black Sea [84], and the mountains of Armenia, penetrated into the heart of Perſia [85], and recalled the armies of the great king to the defence of their bleeding country. With a ſelect band of five thouſand ſoldiers, Heraclius ſailed from Conſtantinople to Trebizond; aſſembled his forces which had wintered in the Pontic regions; and from the mouth of the Phaſis to the Caſpian Sea, encouraged his ſubjects and allies to march with the ſucceſſor of Conſtantine, under the faithful and victorious banner of the croſs. When the legions of Lucullus and Pompey firſt paſſed the Euphrates, they bluſhed at their eaſy victory over the natives

83 Theophanes (p. 256.) carries Heraclius ſwiftly (κατα ταχος) into Armenia. Nicephorus (p. 11.), though he confounds the two expeditions, defines the province of Lazica. Eutychius (Annal. tom. ii. p. 231.) has given the 5000 men, with the more probable ſtation of Trebizond.

84 From Conſtantinople to Trebizond, with a fair wind, four or five days; from thence to Erzerom, five; to Erivan, twelve; to Tauris, ten; in all, thirty-two. Such is the Itinerary of Tavernier (Voyages, tom. i. p. 12—56.), who was perfectly converſant with the roads of Aſia. Tournefort, who travelled with a paſha, ſpent ten or twelve days between Trebizond and Erzerom (Voyage du Levant, tom. iii. lettre xviii.); and Chardin (Voyages, tom. i. p. 249—254.) gives the more correct diſtance of fifty-three paraſangs, each of 5000 paces, (what paces?) between Erivan and Tauris.

85 The expedition of Heraclius into Perſia is finely illuſtrated by M. d'Anville (Memoires de l'Academie des Inſcriptions, tom. xxviii. p. 559—573.). He diſcovers the ſituation of Gandzaca, Thebarma, Daſtagerd, &c. with admirable ſkill and learning; but the obſcure campaign of 624, he paſſes over in ſilence.

of

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of Armenia. But the long experience of war had hardened the minds and bodies of that effeminate people; their zeal and bravery were approved in the ſervice of a declining empire; they abhorred and feared the uſurpation of the houſe of Saſſan, and the memory of perſecution envenomed their pious hatred of the enemies of Chriſt. The limits of Armenia, as it had been ceded to the emperor Maurice, extended as far as the Araxes; the river ſubmitted to the indignity of a bridge [86], and Heraclius, in the footſteps of Mark Antony, advanced towards the city of Tauris or Gandzaca [87], the ancient and modern capital of one of the provinces of Media. At the head of forty thouſand men, Choſroes himſelf had returned from ſome diſtant expedition to oppoſe the progreſs of the Roman arms; but he retreated on the approach of Heraclius, declining the generous alternative of peace or of battle. Inſtead of half a million of inhabitants, which have been aſcribed to Tauris under the reign of the Sophys, the city contained no more than three thouſand houſes; but the value of the royal treaſures was enhanced by a tra-

86 Et Pontem indignatus Araxes. Virgil, Æneid viii. 728. The river Araxes is noiſy, rapid, vehement, and, with the melting of the ſnows, irreſiſtible: the ſtrongeſt and moſt maſſy bridges are ſwept away by the current; and its *indignation* is atteſted by the ruins of many arches near the old town of Zulfa. Voyages de Chardin, tom. i. p. 252.

87 Chardin, tom. i. p. 255—259. With the Orientals (d'Herbelot, Bibliot. Orient. p. 834.), he aſcribes the foundation of Tauris, or Tebris, to Zobeide, the wife of the famous Khalif Haroun Alraſhid; but it appears to have been more ancient, and the names of Gandzaca, Gazaca, Gaza, are expreſſive of the royal treaſure. The number of 550,000 inhabitants is reduced by Chardin from 1,200,000, the popular eſtimate.

dition,

dition, that they were the ſpoils of Croeſus, which had been tranſported by Cyrus from the citadel of Sardes. The rapid conqueſts of Heraclius were ſuſpended only by the winter ſeaſon; a motive of prudence, or ſuperſtition [88], determined his retreat into the province of Albania, along the ſhores of the Caſpian; and his tents were moſt probably pitched in the plains of Mogan [89], the favourite encampment of Oriental princes. In the courſe of this ſucceſsful inroad, he ſignalized the zeal and revenge of a Chriſtian emperor: at his command, the ſoldiers extinguiſhed the fire and deſtroyed the temples of the Magi; the ſtatues of Choſroes, who aſpired to divine honours, were abandoned to the flames; and the ruin of Thebarma or Ormia [90], which had given birth to Zoroaſter himſelf, made ſome atonement for the injuries of the holy ſepulchre. A purer ſpirit of religion was ſhewn in the relief and deliverance of fifty thouſand captives. Heraclius was rewarded by their tears and grateful

[88] He opened the goſpel, and applied or interpreted the firſt caſual paſſage to the name and ſituation of Albania. Theophanes, p. 258.

[89] The heath of Mogan, between the Cyrus and the Araxes, is ſixty paraſangs in length and twenty in breadth (Olearius, p. 1023, 1024.), abounding in waters and fruitful paſtures (Hiſt. de Nader Shah, tranſlated by Mr. Jones from a Perſian MS. part ii. p. 2, 3.). See the encampments of Timur (Hiſt. par Skerefeddin Ali, l. v. c. 37. l. vi. c. 13.) and the coronation of Nader Shah (Hiſt. Perſanne, p. 3—13. and the Engliſh Life by Mr. Jones, p. 64, 65.).

[90] Thebarma and Urmia, near the lake Spauta, are proved to be the ſame city by D'Anville (Memoires de l'Academie, tom. xxviii. p. 564, 565.). It is honoured as the birth-place of Zoroaſter, according to the Perſians (Schultens, Index Geograph. p. 48.); and their tradition is fortified by M. Perron d'Anquetil (Mem. de l'Acad. des Inſcript. tom. xxxi. p. 375.), with ſome texts from *his*, or *their*, Zendaveſta.

acclama-

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acclamations; but this wiſe meaſure, which ſpread the fame of his benevolence, diffuſed the murmurs of the Perſians againſt the pride and obſtinacy of their own ſovereign.

Amidſt the glories of the ſucceeding campaign, Heraclius is almoſt loſt to our eyes, and to thoſe of the Byzantine hiſtorians[91]. From the ſpacious and fruitful plains of Albania, the emperor appears to follow the chain of Hyrcanian mountains, to deſcend into the province of Media or Irak, and to carry his victorious arms as far as the royal cities of Caſbin and Iſpahan, which had never been approached by a Roman conqueror. Alarmed by the danger of his kingdom, the powers of Choſroes were already recalled from the Nile and the Boſphorus, and three formidable armies ſurrounded, in a diſtant and hoſtile land, the camp of the emperor. The Colchian allies prepared to deſert his ſtandard; and the fears of the braveſt veterans were expreſſed, rather than concealed, by their deſponding ſilence. "Be not terrified," ſaid the intrepid Heraclius, "by the multitude of your "foes. With the aid of Heaven, one Roman "may triumph over a thouſand Barbarians. But "if we devote our lives for the ſalvation of our "brethren, we ſhall obtain the crown of martyr-"dom, and our immortal reward will be liberally

[91] I cannot find, and (what is much more) M. d'Anville does not attempt to ſeek, the Salban, Tarantum, territory of the Huns, &c. mentioned by Theophanes (p. 260—262.). Eutychius (Annal. tom. ii. p. 231, 232.), an inſufficient author, names Aſphahan; and Caſbin is moſt probably the city of Sapor. Iſpahan is twenty-four days journey from Tauris, and Caſbin half way between them (Voyages de Tavernier, tom. i. p. 63—82.).

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"paid by God and poſterity." Theſe magnanimous ſentiments were ſupported by the vigour of his actions. He repelled the threefold attack of the Perſians, improved the diviſions of their chiefs, and, by a well-concerted train of marches, retreats, and ſucceſsful actions, finally chaſed them from the field into the fortified cities of Media and Aſſyria. In the ſeverity of the winter ſeaſon, Sarbaraza deemed himſelf ſecure in the walls of Salban; he was ſurpriſed by the activity of Heraclius, who divided his troops and performed a laborious march in the ſilence of the night. The flat roofs of the houſes were defended with uſeleſs valour againſt the darts and torches of the Romans: the ſatraps and nobles of Perſia, with their wives and children, and the flower of their martial youth, were either ſlain or made priſoners. The general eſcaped by a precipitate flight, but his golden armour was the prize of the conqueror; and the ſoldiers of Heraclius enjoyed the wealth and repoſe which they had ſo nobly deſerved. On the return of ſpring, the emperor traverſed in ſeven days the mountains of Curdiſtan, and paſſed without reſiſtance the rapid ſtream of the Tigris. Oppreſſed by the weight of their ſpoils and captives, the Roman army halted under the walls of Amida; and Heraclius informed the ſenate of Conſtantinople of his ſafety and ſucceſs, which they had already felt by the retreat of the beſiegers. The bridges of the Euphrates were deſtroyed by the Perſians; but as ſoon as the emperor had diſcovered a ford, they haſtily retired to defend the banks of the Sa-

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rus[92], in Cilicia. That river, an impetuous torrent, was about three hundred feet broad, the bridge was fortified with ſtrong turrets, and the banks were lined with Barbarian archers. After a bloody conflict, which continued till the evening, the Romans prevailed in the aſſault, and a Perſian of gigantic ſize was ſlain and thrown into the Sarus by the hand of the emperor himſelf. The enemies were diſperſed and diſmayed; Heraclius purſued his march to Sebaſte in Cappadocia; and at the expiration of three years, the ſame coaſt of the Euxine applauded his return from a long and victorious expedition[93].

Deliverance of Conſtantinople from the Perſians and Avars, A.D. 626.

Inſtead of ſkirmiſhing on the frontier, the two monarchs who diſputed the empire of the Eaſt aimed their deſperate ſtrokes at the heart of their rival. The military force of Perſia was waſted by the marches and combats of twenty years, and many of the veterans, who had ſurvived the perils of the ſword and the climate, were ſtill detained in the fortreſſes of Egypt and Syria. But the revenge and ambition of Choſroes exhauſted his kingdom; and the new levies of ſubjects, ſtrangers, and ſlaves, were divided into three formidable bodies[94]. The firſt army of fifty thouſand

[92] At ten paraſangs from Tarſus, the army of the younger Cyrus paſſed the Sarus, three plethra in breadth: the Pyramus, a ſtadium in breadth, ran five paraſangs farther to the eaſt (Xenophon, Anabaſ. l. i. p. 33, 34.).

[93] George of Piſidia (Bell. Abaricum, 246—265. p. 49.) celebrates with truth the perſevering courage of the three campaigns (τρεις περιδρομους) againſt the Perſians.

[94] Petavius (Annotationes ad Nicephorum, p. 62, 63, 64.) diſcriminates the names and actions of five Perſian generals who were ſucceſſively ſent againſt Heraclius.

men,

men, illuſtrious by the ornament and title of the *golden ſpears*, was deſtined to march againſt Heraclius; the ſecond was ſtationed to prevent his junction with the troops of his brother Theodorus; and the third was commanded to beſiege Conſtantinople, and to ſecond the operations of the chagan, with whom the Perſian king had ratified a treaty of alliance and partition. Sarbar, the general of the third army, penetrated through the provinces of Aſia to the well-known camp of Chalcedon, and amuſed himſelf with the deſtruction of the ſacred and profane buildings of the Aſiatic ſuburbs, while he impatiently waited the arrival of his Scythian friends on the oppoſite ſide of the Boſphorus. On the twenty-ninth of June, thirty thouſand Barbarians, the vanguard of the Avars, forced the long wall, and drove into the capital a promiſcuous crowd of peaſants, citizens, and ſoldiers. Fourſcore thouſand [95] of his native ſubjects, and of the vaſſal tribes of Gepidæ, Ruſſians, Bulgarians, and Sclavonians, advanced under the ſtandard of the chagan; a month was ſpent in marches and negotiations, but the whole city was inveſted on the thirty-firſt of July, from the ſuburbs of Pera and Galata to the Blachernæ and ſeven towers; and the inhabitants deſcried with terror the flaming ſignals of the European and Aſiatic ſhores. In the mean while the magiſtrates

95 This number of eight myriads is ſpecified by George of Piſidia (Bell. Abar. 219.). The poet (50—88.) clearly indicates that the old chagan lived till the reign of Heraclius, and that his ſon and ſucceſſor was born of a foreign mother. Yet Foggini (Annotat. p. 57.) has given another interpretation to this paſſage.

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of Conſtantinople repeatedly ſtrove to purchaſe the retreat of the chagan: but their deputies were rejected and inſulted; and he ſuffered the patricians to ſtand before his throne, while the Perſian envoys, in ſilk robes, were ſeated by his ſide. "You ſee," ſaid the haughty Barbarian, "the "proofs of my perfect union with the great king; "and his lieutenant is ready to ſend into my "camp a ſelect band of three thouſand warriors. "Preſume no longer to tempt your maſter with a "partial and inadequate ranſom: your wealth and "your city are the only preſents worthy of my "acceptance. For yourſelves, I ſhall permit you "to depart, each with an under-garment and a "ſhirt; and, at my entreaty, my friend Sarbar "will not refuſe a paſſage through his lines. Your "abſent prince, even now a captive or a fugitive, "has left Conſtantinople to its fate; nor can you "eſcape the arms of the Avars and Perſians, un-"leſs you could ſoar into air like birds, unleſs like "fiſhes you could dive into the waves [96]." During ten ſucceſſive days, the capital was aſſaulted by the Avars, who had made ſome progreſs in the ſcience of attack; they advanced to ſap or batter the wall, under the cover of the impenetrable tortoiſe; their engines diſcharged a perpetual

[96] A bird, a frog, a mouſe, and five arrows, had been the preſent of the Scythian king to Darius (Herodot. l. iv. c. 131, 132.). Subſtituez une lettre à ces ſignes (ſays Rouſſeau, with much good taſte) plus elle ſera menaçante moins elle effrayera: ce ne ſera qu'une fanfarronade dont Darius n'eut fait que rire (Emile, tom. iii. p. 146.). Yet I much queſtion whether the ſenate and people of Conſtantinople *laughed* at this meſſage of the chagan.

volley

volley of ſtones and darts; and twelve lofty towers of wood, exalted the combatants to the height of the neighbouring ramparts. But the ſenate and people were animated by the ſpirit of Heraclius, who had detached to their relief a body of twelve thouſand cuiraſſiers; the powers of fire and mechanics were uſed with ſuperior art and ſucceſs in the defence of Conſtantinople; and the gallies, with two and three ranks of oars, commanded the Boſphorus, and rendered the Perſians the idle ſpectators of the defeat of their allies. The Avars were repulſed; a fleet of Sclavonian canoes was deſtroyed in the harbour; the vaſſals of the chagan threatened to deſert, his proviſions were exhauſted, and after burning his engines, he gave the ſignal of a ſlow and formidable retreat. The devotion of the Romans aſcribed this ſignal deliverance to the virgin Mary; but the mother of Chriſt would ſurely have condemned their inhuman murder of the Perſian envoys, who were entitled to the rights of humanity, if they were not protected by the laws of nations [97].

Alliances and conqueſts of Heraclius.

After the diviſion of his army, Heraclius prudently retired to the banks of the Phaſis, from whence he maintained a defenſive war againſt the fifty thouſand gold ſpears of Perſia. His anxiety was relieved by the deliverance of Conſtantinople;

97 The Paſchal Chronicle (p. 392—397.) gives a minute and authentic narrative of the ſiege and deliverance of Conſtantinople. Theophanes (p. 264.) adds ſome circumſtances; and a faint light may be obtained from the ſmoke of George of Piſidia, who has compoſed a poem (de Bello Abarico, p. 45—54.) to commemorate this auſpicious event.

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his hopes were confirmed by a victory of his brother Theodorus; and to the hoſtile league of Choſroes with the Avars, the Roman emperor oppoſed the uſeful and honourable alliance of the Turks. At his liberal invitation, the hord of Chozars [98] tranſported their tents from the plains of the Volga to the mountains of Georgia; Heraclius received them in the neighbourhood of Teflis, and the khan with his nobles diſmounted from their horſes, if we may credit the Greeks, and fell proſtrate on the ground, to adore the purple of the Cæſar. Such voluntary homage and important aid were entitled to the warmeſt acknowledgments; and the emperor, taking off his own diadem, placed it on the head of the Turkiſh prince, whom he ſaluted with a tender embrace and the appellation of ſon. After a ſumptuous banquet, he preſented Ziebel with the plate and ornaments, the gold, the gems, and the ſilk, which had been uſed at the Imperial table, and, with his own hand, diſtributed rich jewels and ear-rings to his new allies. In a ſecret interview, he produced the portrait of his daughter Eudocia [99], condeſcended to

[98] The power of the Chozars prevailed in the viiith, viiith, and ixth centuries. They were known to the Greeks, the Arabs, and, under the name of *Koſa*, to the Chineſe themſelves. De Guignes, Hiſt. des Huns, tom. ii. part ii. p. 507—509.

[99] Epiphania, or Eudocia, the only daughter of Heraclius and his firſt wife Eudocia, was born at Conſtantinople on the 7th of July, A. D. 611, baptiſed the 15th of Auguſt, and crowned (in the oratory of St. Stephen in the palace) the 4th of October of the ſame year. At this time ſhe was about fifteen. Eudocia was afterwards ſent to her Turkiſh huſband, but the news of his death ſtopped her journey and prevented the conſummation (Ducange, Familiæ Byzantin. p. 118.).

flatter

flatter the Barbarian with the promiſe of a fair and *auguſt* bride, obtained an immediate ſuccour of forty thouſand horſe, and negotiated a ſtrong diverſion of the Turkiſh arms on the ſide of the Oxus [100]. The Perſians, in their turn, retreated with precipitation; in the camp of Edeſſa, Heraclius reviewed an army of ſeventy thouſand Romans and ſtrangers; and ſome months were ſucceſsfully employed in the recovery of the cities of Syria, Meſopotamia, and Armenia, whoſe fortifications had been imperfectly reſtored. Sarbar ſtill maintained the important ſtation of Chalcedon; but the jealouſy of Choſroes, or the artifice of Heraclius, ſoon alienated the mind of that powerful ſatrap from the ſervice of his king and country. A meſſenger was intercepted with a real or fictitious mandate to the cadarigan, or ſecond in command, directing him to ſend, without delay, to the throne, the head of a guilty or unfortunate general. The diſpatches were tranſmitted to Sarbar himſelf; and as ſoon as he read the ſentence of his own death, he dexterouſly inſerted the names of four hundred officers, aſſembled a military council, and aſked the *cadarigan*, whether he was prepared to execute the commands of their tyrant. The Perſians unanimouſly declared, that Choſroes had forfeited the ſceptre; a ſeparate treaty was concluded with the government of Conſtantinople; and if ſome conſiderations of honour or policy reſtrained Sarbar

[100] Elmacin (Hiſt. Saracen. p. 13—16) gives ſome curious and probable facts: but his numbers are rather too high—300,000 Romans aſſembled at Edeſſa—500,000 Perſians killed at Nineveh. The abatement of a cypher is ſcarcely enough to reſtore his ſanity.

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from joining the ſtandard of Heraclius, the emperor was aſſured that he might proſecute, without interruption, his deſigns of victory and peace.

His third expedition, A.D. 627.

Deprived of his firmeſt ſupport, and doubtful of the fidelity of his ſubjects, the greatneſs of Choſroes was ſtill conſpicuous in its ruins. The number of five hundred thouſand may interpreted as an Oriental metaphor, to deſcribe the men and arms, the horſes and elephants that covered Media and Aſſyria againſt the invaſion of Heraclius. Yet the Romans boldly advanced from the Araxes to the Tigris, and the timid prudence of Rhazates was content to follow them by forced marches through a deſolate country, till he received a peremptory mandate to riſk the fate of Perſia in a deciſive battle. Eaſtward of the Tigris, at the end of the bridge of Moſal, the great Nineveh had formerly been erected [101]: the city, and even the ruins of the city, had long ſince diſappeared [102]: the vacant ſpace afforded a ſpacious field for the operations of the two armies. But theſe operations are neglected by the Byzantine hiſtorians, and, like the authors of epic poetry and romance, they aſcribe the victory,

[101] Cteſias (apud Diodor. Sicul. tom. i. l. ii. p. 115. edit. Weſſeling) aſſigns 480 ſtadia (perhaps only 32 miles) for the circumference of Nineveh. Jonas talks of three days journey: the 120,000 perſons deſcribed by the prophet as incapable of diſcerning their right hand from their left, may afford about 700,000 perſons of all ages for the inhabitants of that ancient capital (Goguet, Origines des Loix, &c. tom. iii. part i. p. 92, 93.), which ceaſed to exiſt 600 years before Chriſt. The weſtern ſuburb ſtill ſubſiſted, and is mentioned under the name of Moſul in the firſt age of the Arabian khalifs.

[102] Niebuhr (Voyage en Arabie, &c. tom. ii. p. 286.) paſſed over Nineveh without perceiving it. He miſtook for a ridge of hills the old rampart of brick or earth. It is ſaid to have been 100 feet high, flanked with 1500 towers, each of the height of 200 feet.

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and victories, December 1, &c.

not to the military conduct, but to the perſonal valour, of their favourite hero. On this memorable day, Heraclius, on his horſe Phallas, ſurpaſſed the braveſt of his warriors: his lip was pierced with a ſpear, the ſteed was wounded in the thigh, but he carried his maſter ſafe and victorious through the triple phalanx of the Barbarians. In the heat of the action, three valiant chiefs were ſucceſſively ſlain by the ſword and lance of the emperor; among theſe was Rhazates himſelf; he fell like a ſoldier, but the ſight of his head ſcattered grief and deſpair through the fainting ranks of the Perſians. His armour of pure and maſſy gold, the ſhield of one hundred and twenty plates, the ſword and belt, the ſaddle and cuiraſs, adorned the triumph of Heraclius, and if he had not been faithful to Chriſt and his mother, the champion of Rome might have offered the fourth *opime* ſpoils to the Jupiter of the Capitol [103]. In the battle of Nineveh, which was fiercely fought from day-break to the eleventh hour, twenty-eight ſtandards, beſide thoſe which might be broken or torn, were taken from the Perſians; the greateſt part of their army was cut in pieces, and the victors, concealing their own loſs, paſſed the night on the field. They acknowledge, that on this occaſion, it was leſs difficult to kill than to diſcomfit the ſoldiers of Choſroes;

[103] Rex regia arma fero (ſays Romulus, in the firſt conſecration) . . . . bina poſtea (continues Livy, i. 10.) inter tot bella, opima parta ſunt ſpolia, adeo rara ejus fortuna decoris. If Varro (apud Pomp. Feſtum, p. 306. edit. Dacier) could juſtify his liberality in granting the *opime* ſpoils even to a common ſoldier who had ſlain the king or general of the enemy, the honour would have been much more cheap and common.

amidſt

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amidſt the bodies of their friends, no more than two bow-ſhot from the enemy, the remnant of the Perſian cavalry ſtood firm till the ſeventh hour of the night; about the eighth hour, they retired to their unrifled camp, collected their baggage, and diſperſed on all ſides, from the want of orders rather than of reſolution. The diligence of Heraclius was not leſs admirable in the uſe of victory; by a march of forty-eight miles in four and twenty hours, his vanguard occupied the bridges of the great and the leſſer Zab; and the cities and palaces of Aſſyria were open for the firſt time to the Romans. By a juſt gradation of magnificent ſcenes, they penetrated to the royal ſeat of Daſtagerd, and, though much of the treaſure had been removed, and much had been expended, the remaining wealth appears to have exceeded their hopes, and even to have ſatiated their avarice. Whatever could not be eaſily tranſported, they conſumed with fire, that Choſroes might feel the anguiſh of thoſe wounds, which he had ſo often inflicted on the provinces of the empire: and juſtice might allow the excuſe, if the deſolation had been confined to the works of regal luxury, if national hatred, military licenſe, and religious zeal, had not waſted with equal rage the habitations and the temples of the guiltleſs ſubject. The recovery of three hundred Roman ſtandards, and the deliverance of the numerous captives of Edeſſa and Alexandria, reflect a purer glory on the arms of Heraclius. From the palace of Daſtagerd, he purſued his march within a few miles of Modain or Cteſiphon, till he was ſtopped, on the banks of the Arba, by

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by the difficulty of the paſſage, the rigour of the ſeaſon, and perhaps the fame of an impregnable capital. The return of the emperor is marked by the modern name of the city of Sherhzour; he fortunately paſſed mount Zara, before the ſnow, which fell inceſſantly thirty-four days, and the citizens of Gandzaca, or Tauris, were compelled to entertain his ſoldiers and their horſes with an hoſpitable reception [104].

Flight of Choſroes, A. D. 627, Dec. 29.

When the ambition of Choſroes was reduced to the defence of his hereditary kingdom, the love of glory, or even the ſenſe of ſhame, ſhould have urged him to meet his rival in the field. In the battle of Nineveh, his courage might have taught the Perſians to vanquiſh, or he might have fallen with honour by the lance of a Roman emperor. The ſucceſſor of Cyrus choſe rather, at a ſecure diſtance, to expect the event, to aſſemble the relics of the defeat, and to retire by meaſured ſteps before the march of Heraclius, till he beheld with a ſigh the once loved manſions of Daſtagerd. Both his friends and enemies were perſuaded, that it was the intention of Choſroes to bury himſelf under the ruins of the city and palace: and as both might have been equally adverſe to his flight, the monarch of Aſia, with Sira, and three concubines, eſcaped through an hole in the wall nine days before the arrival of the Romans. The ſlow and

104 In deſcribing this laſt expedition of Heraclius, the facts, the places, and the dates of Theophanes (p. 265—271.) are ſo accurate and authentic, that he muſt have followed the original letters of the emperor, of which the Paſchal Chronicle has preſerved (p. 398—402.) a very curious ſpecimen.

ſtately

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ſtately proceſſion in which he ſhewed himſelf to the proſtrate crowd, was changed to a rapid and ſecret journey; and the firſt evening he lodged in the cottage of a peaſant, whoſe humble door would ſcarcely give admittance to the great king[105]. His ſuperſtition was ſubdued by fear: on the third day, he entered with joy the fortifications of Cteſiphon; yet he ſtill doubted of his ſafety till he had oppoſed the river Tigris to the purſuit of the Romans. The diſcovery of his flight agitated with terror and tumult the palace, the city, and the camp of Daſtagerd: the ſatraps heſitated whether they had moſt to fear from their ſovereign or the enemy; and the females of the haram were aſtoniſhed and pleaſed by the ſight of mankind, till the jealous huſband of three thouſand wives again confined them to a more diſtant caſtle. At his command, the army of Daſtagerd retreated to a new camp: the front was covered by the Arba, and a line of two hundred elephants; the troops of the more diſtant provinces ſucceſſively arrived, and the vileſt domeſtics of the king and ſatraps were enrolled for the laſt defence of the throne. It was ſtill in the power of Choſroes to obtain a reaſonable peace; and he was repeatedly preſſed by the meſſengers of Heraclius, to ſpare the blood of his ſubjects, and to relieve an humane conqueror from the painful duty of carrying fire and ſword through the faireſt countries of Aſia. But the pride of the Perſian

105 The words of Theophanes are remarkable: εισηθε Χοσροης εις οικον γεωργου μηδαμιου μεινας, ὁ χωρηθεις εν τη τουτου θυρα, ὁν ιδων ισχατον Ἡρακλειος εθαμασε (p. 269.). Young princes who diſcover a propenſity to war ſhould repeatedly tranſcribe and tranſlate ſuch ſalutary texts.

had

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had not yet ſunk to the level of his fortune; he derived a momentary confidence from the retreat of the emperor; he wept with impotent rage over the ruins of his Aſſyrian palaces, and diſregarded too long the riſing murmurs of the nation, who complained that their lives and fortunes were ſacrificed to the obſtinacy of an old man. That unhappy old man was himſelf tortured with the ſharpeſt pains both of mind and body; and, in the conſciouſneſs of his approaching end, he reſolved to fix the tiara on the head of Merdaza, the moſt favoured of his ſons. But the will of Choſroes was no longer revered, and Siroes, who gloried in the rank and merit of his mother Sira, had conſpired with the malecontents to aſſert and anticipate the rights of primogeniture [106]. Twenty-two ſatraps, they ſtyled themſelves patriots, were tempted by the wealth and honours of a new reign: to the ſoldiers, the heir of Choſroes promiſed an increaſe of pay; to the Chriſtians, the free exerciſe of their religion; to the captives, liberty and rewards; and to the nation, inſtant peace and the reduction of taxes. It was determined by the conſpirators, that Siroes, with the enſigns of royalty, ſhould appear in the camp; and if the enterpriſe ſhould fail, his eſcape was contrived to the Imperial court. But the new monarch was ſaluted with unanimous acclamations; the flight of Choſroes (yet where could he have fled?) was rudely arreſted, eighteen ſons were maſſacred before his face,

He is depoſed, A. D. 628, Feb. 25.

[106] The authentic narrative of the fall of Choſroes is contained in the letter of Heraclius (Chron. Paſchal. p. 398.) and the hiſtory of Theophanes (p. 271.).

and

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and murdered by his ſon Siroes, Feb. 28.

and he was thrown into a dungeon, where he expired on the fifth day. The Greeks and modern Perſians minutely deſcribe how Choſroes was inſulted, and famiſhed, and tortured, by the command of an inhuman ſon, who ſo far ſurpaſſed the example of his father: but at the time of his death, what tongue would relate the ſtory of the parricide? what eye could penetrate into the *tower of darkneſs?* According to the faith and mercy of his Chriſtian enemies, he ſunk without hope into a ſtill deeper abyſs [107]; and it will not be denied, that tyrants of every age and ſect are the beſt entitled to ſuch infernal abodes. The glory of the houſe of Saſſan ended with the life of Choſroes: his unnatural ſon enjoyed only eight months the fruit of his crimes; and in the ſpace of four years, the regal title was aſſumed by nine candidates, who diſputed, with the ſword or dagger, the fragments of an exhauſted monarchy. Every province, and each city of Perſia, was the ſcene of independence, of diſcord, and of blood, and the ſtate of anarchy prevailed about eight years longer, till the factions were ſilenced and united under the common yoke of the Arabian caliphs [108].

As

[107] On the firſt rumour of the death of Choſroes, an Heraclíad in two cantos was inſtantly publiſhed at Conſtantinople by George of Piſidia (p. 97—105.). A prieſt and a poet might very properly exult in the damnation of the public enemy (εμπεσων εν ταρταρῳ, v. 56.): but ſuch mean revenge is unworthy of a king and a conqueror; and I am ſorry to find ſo much black ſuperſtition (θεομαχος Χοσρους επεσε και επτωμα τισθη εις τα καταχθονια . . . εις το πυρ ακατασβεστον, &c.) in the letter of Heraclius: he almoſt applauds the parricide of Siroes as an act of piety and juſtice.

[108] The beſt Oriental accounts of this laſt period of the Saſſanian kings are found in Eutychius (Annal. tom. ii. p. 251—256.), who

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Treaty of peace between the two empires, A. D. 628, March, &c.

As ſoon as the mountains became paſſable, the emperor received the welcome news of the ſucceſs of the conſpiracy, the death of Choſroes, and the elevation of his eldeſt ſon to the throne of Perſia. The authors of the revolution, eager to diſplay their merits in the court or camp of Tauris, preceded the ambaſſadors of Siroes, who delivered the letters of their maſter to his *brother* the emperor of the Romans [109]. In the language of the uſurpers of every age, he imputes his own crimes to the Deity, and, without degrading his equal majeſty, he offers to reconcile the long diſcord of the two nations, by a treaty of peace and alliance more durable than braſs or iron. The conditions of the treaty were eaſily defined and faithfully executed. In the recovery of the ſtandards and priſoners which had fallen into the hands of the Perſians, the emperor imitated the example of Auguſtus: their care of the national dignity was celebrated by the poets of the times, but the decay of genius may be meaſured by the diſtance between Horace and George of Piſidia: the ſubjects and brethren of Heraclius were redeemed from perſecution, ſlavery, and exile; but, inſtead of the Roman eagles, the true wood of the holy croſs was reſtored to the importunate demands of the ſucceſſor of Conſtantine. The victor was not ambitious of enlar-

diſſembles the parricide of Siroes, d'Herbelot (Bibliotheque Orientale, p. 789.), and Aſſemanni (Bibliothec. Oriental. tom. iii. p. 415—420.).

[109] The letter of Siroes in the Paſchal Chronicle (p. 402.) unfortunately ends before he proceeds to buſineſs. The treaty appears in its execution in the hiſtories of Theophanes and Nicephorus.

ging

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ging the weakneſs of the empire; the ſon of Choſroes abandoned without regret the conqueſts of his father; the Perſians who evacuated the cities of Syria and Egypt were honourably conducted to the frontier, and a war which had wounded the vitals of the two monarchies, produced no change in their external and relative ſituation. The return of Heraclius from Tauris to Conſtantinople, was a perpetual triumph; and after the exploits of ſix glorious campaigns, he peaceably enjoyed the ſabbath of his toils. After a long impatience, the ſenate, the clergy, and the people, went forth to meet their hero, with tears and acclamations, with olive branches and innumerable lamps: he entered the capital in a chariot drawn by four elephants; and as ſoon as the emperor could diſengage himſelf from the tumult of public joy, he taſted more genuine ſatisfaction in the embraces of his mother and his ſon [110].

The ſucceeding year was illuſtrated by a triumph of a very different kind, the reſtitution of the true croſs to the holy ſepulchre. Heraclius performed in perſon the pilgrimage of Jeruſalem, the identity of the relic was verified by the diſcreet patriarch [111], and this auguſt ceremony has been commemorated

[110] The burthen of Corneille's ſong,

"Montrez Heraclius au peuple qui l'attend,"

is much better ſuited to the preſent occaſion. See his triumph in Theophanes (p. 272, 273.) and Nicephorus (p. 15, 16.). The life of the mother and tenderneſs of the ſon are atteſted by George of Piſidia (Bell. Abar. 255, &c. p. 49.). The metaphor of the Sabbath is uſed, ſomewhat profanely, by theſe Byzantine Chriſtians.

[111] See Baronius (Annal. Eccleſ. A.D. 628, N° 1—4.), Eutychius (Annal. tom. ii. p. 240—248.), Nicephorus (Brev. p. 15.). The ſeals of

memorated by the annual feſtival of the exaltation of the croſs. Before the emperor preſumed to tread the conſecrated ground, he was inſtructed to ſtrip himſelf of the diadem and purple, the pomp and vanity of the world: but in the judgment of his clergy, the perſecution of the Jews was more eaſily reconciled with the precepts of the goſpel. He again aſcended his throne to receive the congratulations of the ambaſſadors of France and India: and the fame of Moſes, Alexander, and Hercules [112], was eclipſed, in the popular eſtimation, by the ſuperior merit and glory of the great Heraclius. Yet the deliverer of the Eaſt was indigent and feeble. Of the Perſian ſpoils, the moſt valuable portion had been expended in the war, diſtributed to the ſoldiers, or buried, by an unlucky tempeſt, in the waves of the Euxine. The conſcience of the emperor was oppreſſed by the obligation of reſtoring the wealth of the clergy, which he had borrowed for their own defence: a perpetual fund was required to ſatisfy theſe inexorable creditors; the provinces, already waſted by the arms and avarice of the Perſians, were compelled to a ſecond payment of the ſame taxes; and the arrears of a ſimple citizen, the treaſurer of Damaſcus, were commuted to a fine of one hundred thouſand pieces of gold. The loſs of two hundred thouſand ſol-

of the caſe had never been broken; and this preſervation of the croſs is aſcribed (under God) to the devotion of queen Sira.

[112] George of Piſidia, Acroaſ. iii. de Expedit. contra Perſas, 415, &c. and Heracleid. Acroaſ. i. 65—138. I neglect the meaner parallels of Daniel, Timotheus, &c. Choſroes and the chagan were of courſe compared to Belſhazzar, Pharaoh, the old ſerpent, &c.

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diers [113] who had fallen by the ſword, was of leſs fatal importance than the decay of arts, agriculture, and population, in this long and deſtructive war: and although a victorious army had been formed under the ſtandard of Heraclius, the unnatural effort appears to have exhauſted rather than exerciſed their ſtrength. While the emperor triumphed at Conſtantinople or Jeruſalem, an obſcure town on the confines of Syria was pillaged by the Saracens, and they cut in pieces ſome troops who advanced to its relief: an ordinary and trifling occurrence, had it not been the prelude of a mighty revolution. Theſe robbers were the apoſtles of Mahomet; their fanatic valour had emerged from the deſert; and in the laſt eight years of his reign, Heraclius loſt to the Arabs, the ſame provinces which he had reſcued from the Perſians.

[113] Suidas (in Excerpt. Hiſt. Byzant. p. 46.) gives this number; but either the *Perſian* muſt be read for the *Iſaurian*, war, or this paſſage does not belong to the *emperor* Heraclius.

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*Theological Hiſtory of the Doctrine of the Incarnation.—The Human and Divine Nature of Chriſt.—Enmity of the Patriarchs of Alexandria and Conſtantinople.—St. Cyril and Neſtorius.—Third General Council of Epheſus.—Hereſy of Eutyches.—Fourth General Council of Chalcedon.—Civil and Eccleſiaſtical Diſcord.—Intolerance of Juſtinian.—The Three Chapters.—The Monothelite Controverſy.—State of the Oriental Sects:—*I. *The Neſtorians.*—II. *The Jacobites.*—III. *The Maronites.*—IV. *The Armenians.*—V. *The Copts and Abyſſinians.*

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The incarnation of Chriſt.

AFTER the extinction of paganiſm, the Chriſtians in peace and piety might have enjoyed their ſolitary triumph. But the principle of diſcord was alive in their boſom, and they were more ſolicitous to explore the nature, than to practiſe the laws, of their founder. I have already obſerved, that the diſputes of the TRINITY were ſucceeded by thoſe of the INCARNATION; alike ſcandalous to the church, alike pernicious to the ſtate, ſtill more minute in their origin, ſtill more durable in their effects. It is my deſign to compriſe in the preſent chapter, a religious war of two hundred and fifty years, to repreſent the eccleſiaſtical and political ſchiſm of the Oriental ſects, and to introduce their clamorous or ſanguinary conteſts, by

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a modeſt inquiry into the doctrines of the primitive church [1].

I. A

[1] By what means ſhall I authenticate this previous inquiry, which I have ſtudied to circumſcribe and compreſs?—If I perſiſt in ſupporting each fact or reflection by its proper and ſpecial evidence, every line would demand a ſtring of teſtimonies, and every note would ſwell to a critical diſſertation. But the numberleſs paſſages of antiquity which I have ſeen with my own eyes, are compiled, digeſted, and illuſtrated, by *Petavius* and *Le Clerc*, by *Beauſobre* and *Moſheim*. I ſhall be content to fortify my narrative by the names and characters of theſe reſpectable guides; and in the contemplation of a minute or remote object, I am not aſhamed to borrow the aid of the ſtrongeſt glaſſes: 1. The *Dogmata Theologica* of Petavius, are a work of incredible labour and compaſs; the volumes which relate ſolely to the incarnation (two folios, v^th^ and vi^th^, of 837 pages), are divided into xvi books—the firſt of hiſtory, the remainder of controverſy and doctrine. The Jeſuit's learning is copious and correct; his latinity is pure, his method clear, his argument profound and well connected: but he is the ſlave of the fathers, the ſcourge of heretics, and the enemy of truth and candour, as often as *they* are inimical to the Catholic cauſe. 2. The Arminian Le Clerc, who has compoſed in a quarto volume (Amſterdam, 1716) the eccleſiaſtical hiſtory of the two firſt centuries, was free both in his temper and ſituation; his ſenſe is clear, but his thoughts are narrow; he reduces the reaſon or folly of ages to the ſtandard of his private judgment, and his impartiality is ſometimes quickened, and ſometimes tainted, by his oppoſition to the fathers. See the heretics (Cerinthians, lxxx. Ebionites, ciii. Carpocratians, cxx. Valentinians, cxxi. Baſilidians, cxxiii. Marcionites, cxli, &c.) under their proper dates. 3. The Hiſtoire Critique du Manicheiſme (Amſterdam, 1734, 1739, in two vols. in 4^to^, with a poſthumous diſſertation ſur les Nazarenes, Lauſanne, 1745) of M. de Beauſobre, is a treaſure of ancient philoſophy and theology. The learned hiſtorian ſpins with incomparable art the ſyſtematic thread of opinion, and transforms himſelf by turns into the perſon of a ſaint, a ſage, or an heretic. Yet his refinement is ſometimes exceſſive: he betrays an amiable partiality in favour of the weaker ſide, and, while he guards againſt calumny, he does not allow ſufficient ſcope for ſuperſtition and fanaticiſm. A copious table of contents will direct the reader to any point that he wiſhes to examine. 4. Leſs profound than Petavius, leſs independent than Le Clerc, leſs ingenious than Beauſobre, the hiſtorian Moſheim is full, rational, correct, and moderate. In his learned work, De Rebus Chriſtianis ante Conſtantinum (Helmſtadt, 1753, in 4^to^), ſee the *Nazarenes*

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I. A pure man to the Ebionites.

I. A laudable regard for the honour of the firſt proſelytes, has countenanced the belief, the hope, the wiſh, that the Ebionites, or at leaſt the Nazarenes, were diſtinguiſhed only by their obſtinate perſeverance in the practice of the Moſaic rites. Their churches have diſappeared, their books are obliterated; their obſcure freedom might allow a latitude of faith, and the ſoftneſs of their infant creed would be variouſly moulded by the zeal or prudence of three hundred years. Yet the moſt charitable criticiſm muſt refuſe theſe ſectaries any knowledge of the pure and proper divinity of Chriſt. Educated in the ſchool of Jewiſh prophecy and prejudice, they had never been taught to elevate their hopes above an human and temporal Meſſiah [2]. If they had courage to hail their king when he appeared in a plebeian garb, their groſſer apprehenſions were incapable of diſcerning their God, who had ſtudiouſly diſguiſed his cæleſtial character under the name and perſon of a mortal [3]. The familiar companions of Jeſus of Nazareth converſed with their friend and countryman, who,

zarenes and *Ebionites*, p. 172—179. 328—332. The Gnoſtics in general, p. 179, &c. *Cerinthus*, p. 196—202. Baſilides, p. 352—361. Carpocrates, p. 363—367. Valentinus, p. 371—389. Marcion, p. 404—410. The Manichæans, p. 829—837, &c.

[2] Και γαρ παντες ἡμεις τον Χριστον ανθρωπον ἐξ ανθρωπων προσδοκωμεν γινησεσθαι, ſays the Jew Tryphon (Juſtin. Dialog. p. 207.), in the name of his countrymen; and the modern Jews, the few who divert their thoughts from money to religion, ſtill hold the ſame language, and allege the literal ſenſe of the prophets.

[3] Chryſoſtom (Baſnage, Hiſt. des Juifs, tom. v. c. 9. p. 183.) and Athanaſius (Petav. Dogmat. Theolog. tom. v. l. i. c. 2. p. 3.) are obliged to confeſs that the divinity of Chriſt is rarely mentioned by himſelf or his apoſtles.

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in all the actions of rational and animal life, appeared of the same species with themselves. His progress from infancy to youth and manhood, was marked by a regular increase in stature and wisdom; and after a painful agony of mind and body, he expired on the cross. He lived and died for the service of mankind: but the life and death of Socrates had likewise been devoted to the cause of religion and justice; and although the stoic or the hero may disdain the humble virtues of Jesus, the tears which he shed over his friend and country, may be esteemed the purest evidence of his humanity. The miracles of the gospel could not astonish a people who held, with intrepid faith, the more splendid prodigies of the Mosaic law. The prophets of ancient days had cured diseases, raised the dead, divided the sea, stopped the sun, and ascended to heaven in a fiery chariot. And the metaphorical style of the Hebrews might ascribe to a saint and martyr, the adoptive title of SON OF GOD.

His birth and elevation.

Yet in the insufficient creed of the Nazarenes and the Ebionites, a distinction is faintly noticed between the heretics, who confounded the generation of Christ in the common order of nature, and the less guilty schismatics, who revered the virginity of his mother, and excluded the aid of an earthly father. The incredulity of the former was countenanced by the visible circumstances of his birth, the legal marriage of his reputed parents, Joseph and Mary, and his lineal claim to the kingdom of David and the inheritance of Judah.

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But the ſecret and authentic hiſtory has been recorded in ſeveral copies of the goſpel according to St. Matthew [4], which theſe ſectaries long preſerved in the original Hebrew [5] as the ſole evidence of their faith. The natural ſuſpicions of the huſband, conſcious of his own chaſtity, were diſpelled by the aſſurance (in a dream) that his wife was pregnant of the Holy Ghoſt: and as this diſtant and domeſtic prodigy could not fall under the perſonal obſervation of the hiſtorian, he muſt have liſtened to the ſame voice which dictated to Iſaiah the future conception of a virgin. The ſon of a virgin, generated by the ineffable operation of the Holy Spirit, was a creature without example or reſemblance, ſuperior in every attribute of mind and body to the children of Adam. Since the introduction of the Greek or Chaldean philo-

4 The two firſt chapters of St. Matthew did not exiſt in the Ebionite copies (Epiphan. Hæreſ. xxx. 13.); and the miraculous conception is one of the laſt articles which Dr. Prieſtley has curtailed from his ſcanty creed.

5 It is probable enough that the firſt of the goſpels for the uſe of the Jewiſh converts, was compoſed in the Hebrew or Syriac idiom: the fact is atteſted by a chain of fathers—Papias, Irenæus, Origen, Jerom, &c. It is devoutly believed by the Catholics, and admitted by Caſaubon, Grotius, and Iſaac Voſſius, among the proteſtant critics. But this Hebrew goſpel of St. Matthew is moſt unaccountably loſt; and we may accuſe the diligence or fidelity of the primitive churches, who have preferred the unauthoriſed verſion of ſome nameleſs Greek. Eraſmus and his followers, who reſpect our Greek text as the original goſpel, deprive themſelves of the evidence which declares it to be the work of an apoſtle. See Simon, Hiſt. Critique, &c. tom. iii. c. 5—9. p. 47—101. and the Prolegomena of Mill and Wetſtein to the New Teſtament.

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ſophy [6], the Jews [7] were perſuaded of the pre-exiſtence, tranſmigration, and immortality of ſouls; and Providence was juſtified by a ſuppoſition, that they were confined in their earthly priſons to expiate the ſtains which they had contracted in a former ſtate [8]. But the degrees of purity and corruption are almoſt immeaſurable. It might be fairly preſumed, that the moſt ſublime and virtuous of human ſpirits was infuſed into the offspring of Mary and the Holy Ghoſt [9]; that his abaſement was the reſult of his voluntary choice; and that the object of his miſſion was, to purify,

[6] The metaphyſics of the ſoul are diſengaged by Cicero (Tuſculan, l. i.) and Maximus of Tyre (Diſſertat. xvi.) from the intricacies of dialogue, which ſometimes amuſe, and often perplex, the readers of the *Phædrus*, the *Phædon*, and the *Laws* of Plato.

[7] The diſciples of Jeſus were perſuaded that a man might have ſinned before he was born (John, ix. 2.), and the Phariſees held the tranſmigration of virtuous ſouls (Joſeph. de Bell. Judaico, l. ii. c. 7.); and a modern Rabbi is modeſtly aſſured that Hermes, Pythagoras, Plato, &c. derived their metaphyſics from his illuſtrious countrymen.

[8] Four different opinions have been entertained concerning the origin of human ſouls. 1. That they are eternal and divine. 2. That they were created, in a ſeparate ſtate of exiſtence, before their union with the body. 3. That they have been propagated from the original ſtock of Adam, who contained in himſelf the mental as well as the corporeal ſeed of his poſterity. 4. That each ſoul is occaſionally created and embodied in the moment of conception.—The laſt of theſe ſentiments appears to have prevailed among the moderns; and our ſpiritual hiſtory is grown leſs ſublime, without becoming more intelligible.

[9] Ὅτι ἡ τȣ Σωτηρος ψυχη, ἡ τȣ Ἀδαμ ην—was one of the fifteen hereſies imputed to Origen and denied by his apologiſt (Photius, Bibliothec. cod. cxvii. p. 296.). Some of the Rabbis attribute one and the ſame ſoul to the perſons of Adam, David, and the Meſſiah.

not

not his own, but the ſins of the world. On his return to his native ſkies, he received the immenſe reward of his obedience; the everlaſting kingdom of the Meſſiah, which had been darkly foretold by the prophets, under the carnal images of peace, of conqueſt, and of dominion. Omnipotence could enlarge the human faculties of Chriſt to the extent of his cæleſtial office. In the language of antiquity, the title of God has not been ſeverely confined to the firſt parent, and his incomparable miniſter, his only begotten Son, might claim, without preſumption, the religious, though ſecondary, worſhip of a ſubject world.

II. A pure God to the Docetes.

II. The ſeeds of the faith, which had ſlowly ariſen in the rocky and ungrateful ſoil of Judea, were tranſplanted, in full maturity, to the happier climes of the Gentiles; and the ſtrangers of Rome or Aſia, who never beheld the manhood, were the more readily diſpoſed to embrace the divinity, of Chriſt. The polytheiſt and the philoſopher, the Greek and the Barbarian, were alike accuſtomed to conceive a long ſucceſſion, an infinite chain of angels or dæmons, or deities, or æons, or emanations, iſſuing from the throne of light. Nor could it ſeem ſtrange or incredible, that the firſt of theſe æons, the *Logos*, or word of God, of the ſame ſubſtance with the Father, ſhould deſcend upon earth, to deliver the human race from vice and error, and to conduct them in the paths of life and immortality. But the prevailing doctrine of the eternity and inherent pravity of matter, infected the primitive churches of the Eaſt. Many among the

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the Gentile proſelytes, refuſed to believe that a cæleſtial ſpirit, an undivided portion of the firſt eſſence, had been perſonally united with a maſs of impure and contaminated fleſh: and, in their zeal for the divinity, they piouſly abjured the humanity, of Chriſt. While his blood was ſtill recent on mount Calvary [10], the *Docetes*, a numerous and learned ſect of Aſiatics, invented the *phantaſtic* ſyſtem, which was afterwards propagated by the Marcionites, the Manichæans, and the various names of the Gnoſtic hereſy [11]. They denied the truth and authenticity of the goſpels, as far as they relate the conception of Mary, the birth of Chriſt, and the thirty years that preceded the exerciſe of his miniſtry. He firſt appeared on the banks of the Jordan in the form of perfect manhood; but it was a form only, and not a ſubſtance; an human figure created by the hand of Omnipotence to imitate the faculties and actions of a man, and to impoſe a perpetual illuſion on the ſenſes of his friends and enemies. Articulate ſounds vibrated on the ears of the diſciples; but the image which was impreſſed on their optic nerve, eluded the more ſtub-

[10] Apoſtolis adhuc in ſeculo ſuperſtitibus, apud Judæam Chriſti ſanguine recente, PHANTASMA domini corpus afferebatur. Hieronym. adverſ. Lucifer. c. 8. The epiſtle of Ignatius to the Smynæans, and even the goſpel according to St. John, are levelled againſt the growing error of the Docetes, who had obtained too much credit in the world (1 John, iv. 1—5.).

[11] About the year 200 of the Chriſtian æra, Irenæus and Hippolytus refuted the thirty-two ſects, τῆς ψευδωνύμου γνώσεως, which had multiplied to fourſcore in the time of Epiphanius (Phot. Biblioth. cod. cxx, cxxi, cxxii.). The five books of Irenæus exiſt only in barbarous Latin; but the original might perhaps be found in ſome monaſtery of Greece.

born

born evidence of the touch; and they enjoyed the ſpiritual, not the corporeal, preſence of the Son of God. The rage of the Jews was idly waſted againſt an impaſſive phantom; and the myſtic ſcenes of the paſſion and death, the reſurrection and aſcenſion of Chriſt, were repreſented on the theatre of Jeruſalem for the benefit of mankind. If it were urged, that ſuch ideal mimicry, ſuch inceſſant deception, was unworthy of the God of truth, the Docetes agreed with too many of their orthodox brethren in the juſtification of pious falſehood. In the ſyſtem of the Gnoſtics, the Jehovah of Iſrael, the creator of this lower world, was a rebellious, or at leaſt an ignorant ſpirit. The Son of God deſcended upon earth to aboliſh his temple and his law; and, for the accompliſhment of this ſalutary end, he dexterouſly transferred to his own perſon the hope and prediction of a temporal Meſſiah.

His incorruptible body.

One of the moſt ſubtle diſputants of the Manichæan ſchool, has preſſed the danger and indecency of ſuppoſing, that the God of the Chriſtians, in the ſtate of an human fœtus, emerged at the end of nine months from a female womb. The pious horror of his antagoniſts provoked them to diſclaim all ſenſual circumſtances of conception and delivery; to maintain, that the divinity paſſed through Mary like a ſun-beam through a plate of glaſs; and to aſſert, that the ſeal of her virginity remained unbroken even at the moment when ſhe became the mother of Chriſt. But the raſhneſs of theſe conceſſions has encouraged a milder ſentiment of

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of thoſe Docetes, who taught, not that Chriſt was a phantom, but that he was clothed with an impaſſible and incorruptible body. Such, indeed, in the more orthodox ſyſtem he has acquired ſince his reſurrection, and ſuch he muſt have always poſſeſſed, if it were capable of pervading, without reſiſtance or injury, the denſity of intermediate matter. Devoid of its moſt eſſential properties, it might be exempt from the attributes and infirmities of the fleſh. A fœtus that could increaſe from an inviſible point to its full maturity; a child that could attain the ſtature of perfect manhood, without deriving any nouriſhment from the ordinary ſources, might continue to exiſt without repairing a daily waſte by a daily ſupply of external matter. Jeſus might ſhare the repaſts of his diſciples, without being ſubject to the calls of thirſt or hunger; and his virgin purity was never ſullied by the involuntary ſtains of ſenſual concupiſcence. Of a body thus ſingularly conſtituted, a queſtion would ariſe, by what means, and of what materials, it was originally framed; and our ſounder theology is ſtartled by an anſwer which was not peculiar to the Gnoſtics, that both the form and the ſubſtance proceeded from the divine eſſence. The idea of pure and abſolute ſpirit is a refinement of modern philoſophy; the incorporeal eſſence, aſcribed by the ancients to human ſouls, cæleſtial beings, and even the Deity himſelf, does not exclude the notion of extended ſpace; and their imagination was ſatisfied with a ſubtle nature of air, or fire, or æther, incomparably more perfect than the groſſneſs of the material

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material world. If we define the place, we muſt deſcribe the figure, of the Deity. Our experience, perhaps our vanity, repreſents the powers of reaſon and virtue under an human form. The Anthropomorphites, who ſwarmed among the monks of Egypt and the Catholics of Africa, could produce the expreſs declaration of ſcripture, that man was made after the image of his Creator [12]. The venerable Serapion, one of the ſaints of the Nitrian deſert, relinquiſhed, with many a tear, his darling prejudice; and bewailed, like an infant, his unlucky converſion, which had ſtolen away his God, and left his mind without any viſible object of faith or devotion [13].

III. Double nature of Cerinthus.

III. Such were the fleeting ſhadows of the Docetes. A more ſubſtantial, though leſs ſimple hypotheſis, was contrived by Cerinthus of Aſia [14], who

[12] The pilgrim Caſſian, who viſited Egypt in the beginning of the vth century, obſerves and laments the reign of anthropomorphiſm among the monks, who were not conſcious that they embraced the ſyſtem of Epicurus (Cicero, de Nat. Deorum, i. 18. 34.). Ab univerſo propemodum genere monachorum, qui per totam provinciam Egyptum morabantur, pro ſimplicitatis errore ſuſceptum eſt, ut e contrario memoratum pontificem *(Theophilus)* velut hæreſi graviſſimâ depravatum, pars maxima ſeniorum ab univerſo fraternitatis corpore decerneret deteſtandum (Caſſian, Collation. x. 2.). As long as St. Auguſtin remained a Manichæan, he was ſcandalized by the anthropomorphiſm of the vulgar Catholics.

[13] Ita eſt in oratione ſenex mente confuſus, eo quod illam ἀνθρωπομορφον imaginem Deitatis, quam proponere ſibi in oratione conſueverat aboleri de ſuo corde ſentiret, ut in amariſſimos fletus, crebroſque ſingultus repentè prorumpens, in terram proſtratus, cum ejulatû validiſſimo proclamaret; "Heu me miſerum!" tulerunt a me Deum meum, et quem nunc teneam non habeo, vel quem adorem, aut interpellem jam neſcio. Caſſian, Collat. x. 2.

[14] St. John and Cerinthus (A. D. 80. Cleric. Hiſt. Eccleſ. p. 493.) accidentally met in the public bath of Epheſus; but the apoſtle

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who dared to oppoſe the laſt of the apoſtles. Placed on the confines of the Jewiſh and Gentile world, he laboured to reconcile the Gnoſtic with the Ebionite, by confeſſing in the ſame Meſſiah the ſupernatural union of a man and a God: and this myſtic doctrine was adopted with many fanciful improvements by Carpocrates, Baſilides, and Valentine[15], the heretics of the Egyptian ſchool. In their eyes, JESUS of Nazareth was a mere mortal, the legitimate ſon of Joſeph and Mary: but he was the beſt and wiſeſt of the human race, ſelected as the worthy inſtrument to reſtore upon earth the worſhip of the true and ſupreme Deity. When he was baptiſed in the Jordan, the CHRIST, the firſt of the æons, the Son of God himſelf, deſcended on Jeſus in the form of a dove, to inhabit his mind, and direct his actions during the allotted period of his miniſtry. When the Meſſiah was delivered into the hands of the Jews, the Chriſt,

apoſtle fled from the heretic, leſt the building ſhould tumble on their heads. This fooliſh ſtory, reprobated by Dr. Middleton (Miſcellalaneous Works, vol. ii.), is related however by Irenæus (iii. 3.), on the evidence of Polycarp, and was probably ſuited to the time and reſidence of Cerinthus. The obſolete, yet probably the true, reading of 1 John, iv. 3.—ὁ λυει τον Ιησουν—alludes to the double nature of that primitive heretic.

15 The Valentinians embraced a complex, and almoſt incoherent, ſyſtem. 1. Both Chriſt and Jeſus were æons, though of different degrees; the one acting as the rational ſoul, the other as the divine ſpirit of the Saviour. 2. At the time of the paſſion, they both retired, and left only a ſenſitive ſoul and an human body. 3. Even that body was æthereal, and perhaps apparent.—Such are the laborious concluſions of Moſheim. But I much doubt whether the Latin tranſlator underſtood Irenæus, and whether Irenæus and the Valentinians underſtood themſelves.

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an immortal and impaſſible being, forſook his earthly tabernacle, flew back to the *pleroma* or world of ſpirits, and left the ſolitary Jeſus to ſuffer, to complain, and to expire. But the juſtice and generoſity of ſuch a deſertion are ſtrongly queſtionable; and the fate of an innocent martyr, at firſt impelled, and at length abandoned, by his divine companion, might provoke the pity and indignation of the profane. Their murmurs were variouſly ſilenced by the ſectaries who eſpouſed and modified the double ſyſtem of Cerinthus. It was alleged, that when Jeſus was nailed to the croſs, he was endowed with a miraculous apathy of mind and body, which rendered him inſenſible of his apparent ſufferings. It was affirmed, that theſe momentary, though real pangs, would be abundantly repaid by the temporal reign of a thouſand years reſerved for the Meſſiah in his kingdom of the new Jeruſalem. It was inſinuated, that if he ſuffered, he deſerved to ſuffer; that human nature is never abſolutely perfect; and that the croſs and paſſion might ſerve to expiate the venial tranſgreſſions of the ſon of Joſeph, before his myſterious union with the Son of God [16].

IV. All thoſe who believe the immateriality of the ſoul, a ſpecious and noble tenet, muſt confeſs, IV. Divine incarnation of Apollinaris.

[16] The heretics abuſed the paſſionate exclamation of "My God, "my God, why haſt thou *forſaken* me!" Rouſſeau, who has drawn an eloquent, but indecent, parallel between Chriſt and Socrates, forgets that not a word of impatience or deſpair eſcaped from the mouth of the dying philoſopher. In the Meſſiah, ſuch ſentiments could be only apparent; and ſuch ill-ſounding words are properly explained as the application of a pſalm and prophecy.

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from their preſent experience, the incomprehenſible union of mind and matter. A ſimilar union is not inconſiſtent with a much higher, or even with the higheſt degree, of mental faculties; and the incarnation of an æon or archangel, the moſt perfect of created ſpirits, does not involve any poſitive contradiction or abſurdity. In the age of religious freedom, which was determined by the council of Nice, the dignity of Chriſt was meaſured by private judgment according to the indefinite rule of ſcripture, or reaſon, or tradition. But when his pure and proper divinity had been eſtabliſhed on the ruins of Arianiſm, the faith of the Catholics trembled on the edge of a precipice where it was impoſſible to recede, dangerous to ſtand, dreadful to fall; and the manifold inconveniences of their creed were aggravated by the ſublime character of their theology. They heſitated to pronounce; *that* God himſelf, the ſecond perſon of an equal and conſubſtantial trinity, was manifeſted in the fleſh [17]; *that* a being who pervades the univerſe, had been confined in the womb of Mary; *that* his eternal duration had been marked by the days, and months, and years of human exiſtence; *that* the Almighty

[17] This ſtrong expreſſion might be juſtified by the language of St. Paul (1 Tim. iii. 16.); but we are deceived by our modern bibles. The word ὃ *(which)* was altered to Θεὸς *(God)* at Conſtantinople in the beginning of the vith century: the true reading, which is viſible in the Latin and Syriac verſions, ſtill exiſts in the reaſoning of the Greek, as well as of the Latin fathers; and this fraud, with that of the *three witneſſes of St. John*, is admirably detected by Sir Iſaac Newton. (See his two Letters tranſlated by M. de Miſſy, in the Journal Britannique, tom. xv. p. 148—190. 351—390.) I have weighed the arguments, and may yield to the authority of the firſt of philoſophers, who was deeply ſkilled in critical and theological ſtudies.

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had been ſcourged and crucified; *that* his impaſſible eſſence had felt pain and anguiſh; *that* his omniſcience was not exempt from ignorance; and *that* the ſource of life and immortality expired on mount Calvary. Theſe alarming conſequences were affirmed with unbluſhing ſimplicity by Apollinaris [18], biſhop of Laodicea, and one of the luminaries of the church. The ſon of a learned grammarian, he was ſkilled in all the ſciences of Greece; eloquence, erudition, and philoſophy, conſpicuous in the volumes of Apollinaris, were humbly devoted to the ſervice of religion. The worthy friend of Athanaſius, the worthy antagoniſt of Julian, he bravely wreſtled with the Arians and Polytheiſts, and, though he affected the rigour of geometrical demonſtration, his commentaries revealed the literal and allegorical ſenſe of the ſcriptures. A myſtery, which had long floated in the looſeneſs of popular belief, was defined by his perverſe diligence in a technical form; and he firſt proclaimed the memorable words, "One incarnate nature of "Chriſt," which are ſtill re-echoed with hoſtile clamours in the churches of Aſia, Egypt, and Æthiopia. He taught that the Godhead was united or mingled with the body of a man; and that the *Logos*, the eternal wiſdom, ſupplied in the fleſh the

[18] For Apollinaris and his ſect, ſee Socrates, l. ii. c. 46. l. iii. c. 16. Sozomen, l. v. c. 18. l. vi. c. 25. 27. Theodoret, l. v. 3. 10, 11. Tillemont, Memoires Eccleſiaſtiques, tom. vii. p. 602—638. Not. p. 789—794. in 4to, Veniſe, 1732. The contemporary ſaints always mention the biſhop of Laodicea as a friend and brother. The ſtyle of the more recent hiſtorians is harſh and hoſtile; yet Philoſtorgius compares him (l. viii. c. 11—15.) to Baſil and Gregory.

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place and office of an human ſoul. Yet as the profound doctor had been terrified at his own raſhneſs, Apollinaris was heard to mutter ſome faint accents of excuſe and explanation. He acquieſced in the old diſtinction of the Greek philoſophers, between the rational and ſenſitive ſoul of man; that he might reſerve the *Logos* for intellectual functions, and employ the ſubordinate human principle in the meaner actions of animal life. With the moderate Docetes, he revered Mary as the ſpiritual, rather than as the carnal, mother of Chriſt, whoſe body either came from heaven, impaſſible and incorruptible, or was abſorbed, and as it were transformed, into the eſſence of the Deity. The ſyſtem of Apollinaris was ſtrenuouſly encountered by the Aſiatic and Syrian divines, whoſe ſchools are honoured by the names of Baſil, Gregory, and Chryſoſtom, and tainted by thoſe of Diodorus, Theodore, and Neſtorius. But the perſon of the aged biſhop of Laodicea, his character and dignity, remained inviolate; and his rivals, ſince we may not ſuſpect them of the weakneſs of toleration, were aſtoniſhed, perhaps, by the novelty of the argument, and diffident of the final ſentence of the Catholic church. Her judgment at length inclined in their favour; the hereſy of Apollinaris was condemned, and the ſeparate congregations of his diſciples were proſcribed by the Imperial laws. But his principles were ſecretly entertained in the monaſteries of Egypt, and his enemies felt the hatred of Theophilus and Cyril the ſucceſſive patriarchs of Alexandria.

4 V. The

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V. Orthodox conſent and verbal diſputes.

V. The groveling Ebionite, and the phantaſtic Docetes, were rejected and forgotten: the recent zeal againſt the errors of Apollinaris, reduced the Catholics to a ſeeming agreement with the double nature of Cerinthus. But inſtead of a temporary and occaſional alliance, *they* eſtabliſhed, and *we* ſtill embrace, the ſubſtantial, indiſſoluble, and everlaſting union of a perfect God, with a perfect man, of the ſecond perſon of the trinity with a reaſonable ſoul and human fleſh. In the beginning of the fifth century, the *unity* of the *two natures* was the prevailing doctrine of the church. On all ſides, it was confeſſed, that the mode of their co-exiſtence could neither be repreſented by our ideas nor expreſſed by our language. Yet a ſecret and incurable diſcord was cheriſhed, between thoſe who were moſt apprehenſive of confounding, and thoſe who were moſt fearful of ſeparating, the divinity, and the humanity, of Chriſt. Impelled by religious frenzy, they fled with adverſe haſte from the error which they mutually deemed moſt deſtructive of truth and ſalvation. On either hand they were anxious to guard, they were jealous to defend, the union and the diſtinction of the two natures, and to invent ſuch forms of ſpeech, ſuch ſymbols of doctrine, as were leaſt ſuſceptible of doubt or ambiguity. The poverty of ideas and language tempted them to ranſack art and nature for every poſſible compariſon, and each compariſon miſled their fancy in the explanation of an incomparable myſtery. In the polemic microſcope, an atom is enlarged to a monſter, and each party was ſkilful

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to exaggerate the abſurd or impious concluſions that might be extorted from the principles of their adverſaries. To eſcape from each other, they wandered through many a dark and devious thicket, till they were aſtoniſhed by the horrid phantoms of Cerinthus and Apollinaris, who guarded the oppoſite iſſues of the theological labyrinth. As ſoon as they beheld the twilight of ſenſe and hereſy, they ſtarted, meaſured back their ſteps, and were again involved in the gloom of impenetrable orthodoxy. To purge themſelves from the guilt or reproach of damnable error, they diſavowed their conſequences, explained their principles, excuſed their indiſcretions, and unanimouſly pronounced the ſounds of concord and faith. Yet a latent and almoſt inviſible ſpark ſtill lurked among the embers of controverſy: by the breath of prejudice and paſſion, it was quickly kindled to a mighty flame, and the verbal diſputes[19] of the Oriental ſects have ſhaken the pillars of the church and ſtate.

Cyril, patriarch of Alexandria,

The name of CYRIL of Alexandria is famous in controverſial ſtory, and the title of *ſaint*, is a mark that his opinions and his party have finally pre-

[19] I appeal to the confeſſion of two Oriental prelates, Gregory Abulpharagius the Jacobite primate of the Eaſt, and Elias the Neſtorian metropolitan of Damaſcus (ſee Aſſeman. Bibliothec. Oriental. tom. ii. p. 291. tom. iii. p. 514, &c.), that the Melchites, Jacobites, Neſtorians, &c. agree in the *doctrine*, and differ only in the *expreſſion*. Our moſt learned and rational divines—Baſnage, Le Clerc, Beauſobre, La Croze, Moſheim, Jablonſki—are inclined to favour this charitable judgment; but the zeal of Petavius is loud and angry, and the moderation of Dupin is conveyed in a whiſper.

vailed.

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A.D. 412, Oct. 18— A.D. 444, June 27.

vailed. In the houſe of his uncle, the archbiſhop Theophilus, he imbibed the orthodox leſſons of zeal and dominion, and five years of his youth were profitably ſpent in the adjacent monaſteries of Nitria. Under the tuition of the abbot Serapion, he applied himſelf to eccleſiaſtical ſtudies, with ſuch indefatigable ardour, that in the courſe of *one* ſleepleſs night, he has peruſed the four goſpels, the catholic epiſtles, and the epiſtle to the Romans. Origen he deteſted; but the writings of Clemens and Dionyſius, of Athanaſius and Baſil, were continually in his hands: by the theory and practice of diſpute, his faith was confirmed and his wit was ſharpened; he extended round his cell the cobwebs of ſcholaſtic theology, and meditated the works of allegory and metaphyſics, whoſe remains, in ſeven verboſe folios, now peaceably ſlumber by the ſide of their rivals [20]. Cyril prayed and faſted in the deſert, but his thoughts (it is the reproach of a friend [21]) were ſtill fixed on the world; and the call of Theophilus, who ſummoned him to the tumult of cities and ſynods, was too readily obeyed by the aſpiring hermit. With the approbation of his uncle, he aſſumed the office, and acquired the fame, of a popular preacher. His comely perſon

[20] La Croze (Hiſt. du Chriſtianiſme des Indes, tom. i. p. 24.) avows his contempt for the genius and writings of Cyril. De tous les ouvrages des anciens, il y en a peu qu'on liſe avec moins d'utilité; and Dupin (Bibliothéque Eccleſiaſtique, tom. iv. p. 42—52.), in words of reſpect, teaches us to deſpiſe them.

[21] Of Iſidore of Peluſium (l. i. epiſt. 25. p. 8.). As the letter is not of the moſt creditable ſort, Tillemont, leſs ſincere than the Bollandiſts, affects a doubt whether *this* Cyril is the nephew of Theophilus (Mem. Eccleſ. tom. xiv. p. 268.).

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adorned the pulpit, the harmony of his voice reſounded in the cathedral, his friends were ſtationed to lead or ſecond the applauſe of the congregation [22], and the haſty notes of the ſcribes preſerved his diſcourſes, which, in their effect, though not in their compoſition, might be compared with thoſe of the Athenian orators. The death of Theophilus expanded and realiſed the hopes of his nephew. The clergy of Alexandria was divided; the ſoldiers and their general ſupported the claims of the archdeacon; but a reſiſtleſs multitude, with voices and with hands, aſſerted the cauſe of their favourite; and, after a period of thirty-nine years, Cyril was ſeated on the throne of Athanaſius [23].

His tyranny, A.D. 413, 414, 415, &c.

The prize was not unworthy of his ambition. At a diſtance from the court, and at the head of an immenſe capital, the patriarch, as he was now ſtyled, of Alexandria had gradually uſurped the ſtate and authority of a civil magiſtrate. The public and private charities of the city were managed by his diſcretion; his voice inflamed or appeaſed the paſſions of the multitude; his commands were blindly obeyed by his numerous and fanatic *parabolani* [24], familiariſed in their daily office

22 A grammarian is named by Socrates (l. vii. 13.) διδασκαλος δε ακροατης τε επισκοπε Κυριλλε καθεστως, και περι το κροτειν εν ταις διδασκαλιαις αυτε ενιεμενον τε σπουδαιοτερος.

23 See the youth and promotion of Cyril, in Socrates (l. vii. c. 7.) and Renaudot (Hiſt. Patriach. Alexandrin. p. 106. 108.). The Abbé Renaudot drew his materials from the Arabic hiſtory of Severus, biſhop of Hermopolis Magna, or Aſhmunein, in the xth century, who can never be truſted, unleſs our aſſent is extorted by the internal evidence of facts.

24 The *Parabolani* of Alexandria were a charitable corporation, inſtituted during the plague of Gallienus to viſit the ſick and to bury the

office with ſcenes of death; and the præfects of Egypt were awed or provoked by the temporal power of theſe Chriſtian pontiffs. Ardent in the proſecution of hereſy, Cyril auſpiciouſly opened his reign by oppreſſing the Novatians, the moſt innocent and harmleſs of the ſectaries. The interdiction of their religious worſhip, appeared in his eyes a juſt and meritorious act; and he confiſcated their holy veſſels, without apprehending the guilt of ſacrilege. The toleration, and even the privileges of the Jews, who had multiplied to the number of forty thouſand, were ſecured by the laws of the Cæſars and Ptolemies, and a long preſcription of ſeven hundred years ſince the foundation of Alexandria. Without any legal ſentence, without any royal mandate, the patriarch, at the dawn of day, led a ſeditious multitude to the attack of the ſynagogues. Unarmed and unprepared, the Jews were incapable of reſiſtance; their houſes of prayer were levelled with the ground, and the epiſcopal warrior, after rewarding his troops with the plunder of their goods, expelled from the city the remnant of the unbelieving nation. Perhaps he might plead the inſolence of their proſperity, and their deadly hatred of the Chriſtians, whoſe blood they had recently ſhed in a malicious or acci-

the dead. They gradually enlarged; abuſed and ſold the privileges of their order. Their outrageous conduct under the reign of Cyril provoked the emperor to deprive the patriarch of their nomination, and to reſtrain their number to five or ſix hundred. But theſe reſtraints were tranſient and ineffectual. See the Theodoſian Code, l. xvi. tit. ii. and Tillemont, Mem. Eccleſ. tom. xiv. p. 276—278.

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dental tumult. Such crimes would have deſerved the animadverſion of the magiſtrate; but in this promiſcuous outrage, the innocent were confounded with the guilty, and Alexandria was impoveriſhed by the loſs of a wealthy and induſtrious colony. The zeal of Cyril expoſed him to the penalties of the Julian law; but in a feeble government, and a ſuperſtitious age, he was ſecure of impunity, and even of praiſe. Oreſtes complained; but his juſt complaints were too quickly forgotten by the miniſters of Theodoſius, and too deeply remembered by a prieſt who affected to pardon, and continued to hate, the præfect of Egypt. As he paſſed through the ſtreets, his chariot was aſſaulted by a band of five hundred of the Nitrian monks; his guards fled from the wild beaſts of the deſert; his proteſtations that he was a Chriſtian and a Catholic, were anſwered by a volley of ſtones, and the face of Oreſtes was covered with blood. The loyal citizens of Alexandria haſtened to his reſcue; he inſtantly ſatisfied his juſtice and revenge againſt the monk by whoſe hand he had been wounded, and Ammonius expired under the rod of the lictor. At the command of Cyril, his body was raiſed from the ground, and tranſported, in ſolemn proceſſion, to the cathedral; the name of Ammonius was changed to that of Thaumaſius the *wonderful*; his tomb was decorated with the trophies of martyrdom, and the patriarch aſcended the pulpit to celebrate the magnanimity of an aſſaſſin and a rebel. Such honours might incite the faithful to combat and die under the banners of the ſaint; and he

ſoon

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ſoon prompted, or accepted, the ſacrifice of a virgin, who profeſſed the religion of the Greeks, and cultivated the friendſhip of Oreſtes. Hypatia, the daughter of Theon the mathematician [25], was initiated in her father's ſtudies; her learned comments have elucidated the geometry of Apollonius and Diophantus, and ſhe publicly taught, both at Athens and Alexandria, the philoſophy of Plato and Ariſtotle. In the bloom of beauty, and in the maturity of wiſdom, the modeſt maid refuſed her lovers and inſtructed her diſciples; the perſons moſt illuſtrious for their rank or merit were impatient to viſit the female philoſopher; and Cyril beheld, with a jealous eye, the gorgeous train of horſes and ſlaves who crowded the door of her academy. A rumour was ſpread among the Chriſtians, that the daughter of Theon was the only obſtacle to the reconciliation of the præfect and the archbiſhop; and that obſtacle was ſpeedily removed. On a fatal day, in the holy ſeaſon of Lent, Hypatia was torn from her chariot, ſtripped naked, dragged to the church, and inhumanly butchered by the hands of Peter the reader, and a troop of ſavage and mercileſs fanatics: her fleſh was ſcraped from her bones with ſharp oyſter-ſhells [26], and her quivering

25 For Theon, and his daughter Hypatia, ſee Fabricius, Bibliothec. tom. viii. p. 210, 211. Her article in the Lexicon of Suidas is curious and original. Heſychius (Meurſii Opera, tom. vii. p. 295, 296.) obſerves, that ſhe was perſecuted διὰ τὴν ὑπερβαλλουσαν σοφιαν; and an epigram in the Greek Anthology (l. i. c. 76. p. 159. edit. Brodæi) celebrates her knowledge and eloquence. She is honourably mentioned (Epiſt. 10. 15, 16. 33—80. 124. 135. 153.) by her friend and diſciple the philoſophic biſhop Syneſius.

26 Ὀστρακοις ατειλον, καὶ μεληδον διασπασαντες, &c. Oyſter-ſhells were plentifully ſtrewed on the ſea-beach before the Cæſareum. I may

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quivering limbs were delivered to the flames. The juſt progreſs of inquiry and puniſhment was ſtopped by ſeaſonable gifts; but the murder of Hypatia has imprinted an indelible ſtain on the character and religion of Cyril of Alexandria [27].

Neſtorius, patriarch of Conſtantinople, A. D. 428, April 10.

Superſtition, perhaps, would more gently expiate the blood of a virgin, than the baniſhment of a ſaint; and Cyril had accompanied his uncle to the iniquitous ſynod of the Oak. When the memory of Chryſoſtom was reſtored and conſecrated, the nephew of Theophilus, at the head of a dying faction, ſtill maintained the juſtice of his ſentence; nor was it till after a tedious delay and an obſtinate reſiſtance, that he yielded to the conſent of the Catholic world [28]. His enmity to the Byzantine pontiffs [29] was a ſenſe of intereſt, not a ſally of paſſion: he envied their fortunate ſtation in the

may therefore prefer the literal ſenſe, without rejecting the metaphorical verſion of *tegulæ*, tiles, which is uſed by M. de Valois. I am ignorant, and the aſſaſſins were probably regardleſs, whether their victim was yet alive.

27 Theſe exploits of St. Cyril are recorded by Socrates (l. vii. c. 13, 14, 15.); and the moſt reluctant bigotry is compelled to copy an hiſtorian who coolly ſtyles the murderers of Hypatia ανδρες το φρονημα σθεναροι. At the mention of that injured name, I am pleaſed to obſerve a bluſh even on the cheek of Baronius (A. D. 415, N° 48.).

28 He was deaf to the entreaties of Atticus of Conſtantinople, and of Iſidore of Peluſium, and yielded only (if we may believe Nicephorus, l. xiv. c. 18.) to the perſonal interceſſion of the Virgin. Yet in his laſt years he ſtill muttered that John Chryſoſtom had been juſtly condemned (Tillemont, Mem. Eccleſ. tom. xiv. p. 278—282. Baronius, Annal. Eccleſ. A. D. 412, N° 46—64.).

29 See their characters in the hiſtory of Socrates (l. vii. c. 25—28.); their power and pretenſions, in the huge compilation of Thomaſſin (Diſcipline de l'Egliſe, tom. i. p. 80—91.).

ſunſhine

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ſunſhine of the Imperial court; and he dreaded their upſtart ambition, which oppreſſed the metropolitans of Europe and Aſia, invaded the provinces of Antioch and Alexandria, and meaſured their dioceſe by the limits of the empire. The long moderation of Atticus, the mild uſurper of the throne of Chryſoſtom, ſuſpended the animoſities of the eaſtern patriarchs; by Cyril was at length awakened by the exaltation of a rival more worthy of his eſteem and hatred. After the ſhort and troubled reign of Siſinnius biſhop of Conſtantinople, the factions of the clergy and people were appeaſed by the choice of the emperor, who, on this occaſion, conſulted the voice of fame, and invited the merit of a ſtranger. Neſtorius [30], a native of Germanicia, and a monk of Antioch, was recommended by the auſterity of his life, and the eloquence of his ſermons; but the firſt homily which he preached before the devout Theodoſius betrayed the acrimony and impatience of his zeal. "Give me, O Cæſar," he exclaimed, "give me "the earth purged of heretics, and I will give "you in exchange the kingdom of heaven. Ex- "terminate with me, the heretics; and with you, "I will exterminate the Perſians." On the fifth day, as if the treaty had been already ſigned, the patriarch of Conſtantinople diſcovered, ſurpriſed, and attacked a ſecret conventicle of the Arians: they preferred death to ſubmiſſion; the flames that were

30 His elevation and conduct are deſcribed by Socrates (l. vii. c. 29. 31.); and Marcellinus ſeems to have applied the loquentiæ ſatis, ſapientiæ parum, of Salluſt.

kindled

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kindled by their deſpair, ſoon ſpread to the neighbouring houſes, and the triumph of Neſtorius was clouded by the name of *incendiary*. On either ſide of the Helleſpont, his epiſcopal vigour impoſed a rigid formulary of faith and diſcipline; a chronological error concerning the feſtival of Eaſter was puniſhed as an offence againſt the church and ſtate. Lydia and Caria, Sardes and Miletus, were purified with the blood of the obſtinate Quartodecimans; and the edict of the emperor, or rather of the patriarch, enumerates three and twenty degrees and denominations in the guilt and puniſhment of hereſy [31]. But the ſword of perſecution, which Neſtorius ſo furiouſly wielded, was ſoon turned againſt his own breaſt. Religion was the pretence; but, in the judgment of a contemporary ſaint, ambition was the genuine motive of epiſcopal warfare [32].

His hereſy, A. D. 429—431.

In the Syrian ſchool, Neſtorius had been taught to abhor the confuſion of the two natures, and nicely to diſcriminate the humanity of his *maſter* Chriſt from the divinity of the *Lord* Jeſus [33]. The

[31] Cod. Theodoſ. l. xvi. tit. v. leg. 65. with the illuſtrations of Baronius (A. D. 428, N° 25, &c.), Godefroy (ad locum), and Pagi (Critica, tom. ii. p. 208.).

[32] Iſidore of Peluſium (l. iv. epiſt. 57.). His words are ſtrong and ſcandalous—τι θαυμαζεις, ει και νυν περι πραγμα θειον και λογε κρειττον διαφωνειν προσωπειωται υπο φιλαρχιας εκβακχευομενοι. Iſidore is a ſaint, but he never became a biſhop; and I half ſuſpect that the pride of Diogenes trampled on the pride of Plato.

[33] La Croze (Chriſtianiſme des Indes, tom. i. p. 44—53. Theſaurus Epiſtolicus La Crozianus, tom. iii. p. 276—280.) has detected the uſe of ὁ διστοτης, and ὁ κυριος Ιησους, which, in the ivth, vth, and vith centuries, diſcriminate the ſchool of Diodorus of Tarſus and his Neſtorian diſciples.

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Bleſſed Virgin he revered as the mother of Chriſt, but his ears were offended with the raſh and recent title of mother of God [34], which had been inſenſibly adopted ſince the origin of the Arian controverſy. From the pulpit of Conſtantinople, a friend of the patriarch, and afterwards the patriarch himſelf, repeatedly preached againſt the uſe, or the abuſe, of a word [35] unknown to the apoſtles, unauthoriſed by the church, and which could only tend to alarm the timorous, to miſlead the ſimple, to amuſe the profane, and to juſtify, by a ſeeming reſemblance, the old genealogy of Olympus [36]. In his calmer moments Neſtorius confeſſed, that it might be tolerated or excuſed by the union of the two natures, and the communication of their

34 Θεοτοκος.—*Deipara*: as in zoology we familiarly ſpeak of oviparous and viviparous animals. It is not eaſy to fix the invention of this word, which La Croze (Chriſtianiſme des Indes, tom. i. p. 16.) aſcribes to Euſebius of Cæſarea and the Arians. The orthodox teſtimonies are produced by Cyril and Petavius (Dogmat. Theolog. tom. v. l. v. c. 15. p. 254, &c.); but the veracity of the ſaint is queſtionable, and the epithet of θεοτοκος ſo eaſily ſlides from the margin to the text of a Catholic MS.

35 Baſnage, in his Hiſtoire de l'Egliſe, a work of controverſy (tom. i. p. 505.), juſtifies the mother, by the blood, of God (Acts, xx. 28. with Mill's various readings). But the Greek MSS. are far from unanimous; and the primitive ſtyle of the blood of Chriſt is preſerved in the Syriac verſion, even in thoſe copies which were uſed by the Chriſtians of St. Thomas on the coaſt of Malabar (La Croze, Chriſtianiſme des Indes, tom. i. p. 347.). The jealouſy of the Neſtorians and Monophyſites has guarded the purity of their text.

36 The Pagans of Egypt already laughed at the new Cybele of the Chriſtians (Iſidor. l. i. epiſt. 54.): a letter was forged in the name of Hypatia, to ridicule the theology of her aſſaſſin (Synodicon, c. 216. in iv tom. Concil. p. 484.). In the article of NESTORIUS, Bayle has ſcattered ſome looſe philoſophy on the worſhip of the Virgin Mary.

idioms:

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idioms[37]: but he was exaſperated, by contradiction, to diſclaim the worſhip of a new-born, an infant Deity, to draw his inadequate ſimiles from the conjugal or civil partnerſhips of life, and to deſcribe the manhood of Chriſt as the robe, the inſtrument, the tabernacle of his Godhead. At theſe blaſphemous ſounds, the pillars of the ſanctuary were ſhaken. The unſucceſsful competitors of Neſtorius indulged their pious or perſonal reſentment, the Byzantine clergy was ſecretly diſpleaſed with the intruſion of a ſtranger; whatever is ſuperſtitious or abſurd, might claim the protection of the monks; and the people was intereſted in the glory of their virgin patroneſs[38]. The ſermons of the archbiſhop, and the ſervice of the altar, were diſturbed by ſeditious clamour; his authority and doctrine were renounced by ſeparate congregations; every wind ſcattered round the empire the leaves of controverſy; and the voice of the combatants on a ſonorous theatre re-echoed in the cells of Paleſtine and Egypt. It was the duty of Cyril to enlighten the zeal and ignorance of his innumerable monks: in the ſchool of Alexandria, he had imbibed and profeſſed the incarnation of one nature; and the ſucceſſor of Athanaſius conſulted his pride and ambition, when he roſe in arms againſt another Arius, more formidable and more

37 The ἀντιδοσις of the Greeks, a mutual loan or transfer of the idioms or properties of each nature to the other—of infinity to man, paſſibility to God, &c. Twelve rules on this niceſt of ſubjects compoſe the Theological Grammar of Petavius (Dogmata Theolog. tom. v. l. iv. c. 14, 15. p. 209, &c.).

38 See Ducange, C. P. Chriſtiana, l. i. p. 30, &c.

guilty,

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guilty, on the ſecond throne of the hierarchy. After a ſhort correſpondence, in which the rival prelates diſguiſed their hatred in the hollow language of reſpect and charity, the patriarch of Alexandria denounced to the prince and people, to the Eaſt and to the Weſt, the damnable errors of the Byzantine pontiff. From the Eaſt, more eſpecially from Antioch, he obtained the ambiguous counſels of toleration and ſilence, which were addreſſed to both parties while they favoured the cauſe of Neſtorius. But the Vatican received with open arms the meſſengers of Egypt. The vanity of Celeſtine was flattered by the appeal; and the partial verſion of a monk decided the faith of the pope, who, with his Latin clergy, was ignorant of the language, the arts, and the theology of the Greeks. At the head of an Italian ſynod, Celeſtine weighed the merits of the cauſe, approved the creed of Cyril, condemned the ſentiments and perſon of Neſtorius, degraded the heretic from his epiſcopal dignity, allowed a reſpite of ten days for recantation and penance, and delegated to his enemy the execution of this raſh and illegal ſentence. But the patriarch of Alexandria, whilſt he darted the thunders of a god, expoſed the errors and paſſions of a mortal: and his twelve anathemas [39] ſtill torture the orthodox ſlaves, who adore the memory of a ſaint, without forfeiting their alle-

39 Concil. tom. iii. p. 943. They have never been *directly* approved by the church (Tillemont, Mem. Eccleſ. tom. xiv. p. 368—372.). I almoſt pity the agony of rage and ſophiſtry with which Petavius ſeems to be agitated in the vi^th^ book of his Dogmata Theologica.

giance

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giance to the ſynod of Chalcedon. Theſe bold aſſertions are indelibly tinged with the colours of the Apollinarian hereſy: but the ſerious, and perhaps the ſincere, profeſſions of Neſtorius have ſatisfied the wiſer and leſs partial theologians of the preſent times [40].

First council of Epheſus, A.D. 431, June—October.

Yet neither the emperor nor the primate of the Eaſt were diſpoſed to obey the mandate of an Italian prieſt; and a ſynod of the Catholic, or rather of the Greek church, was unanimouſly demanded as the ſole remedy that could appeaſe or decide this eccleſiaſtical quarrel [41]. Epheſus, on all ſides acceſſible by ſea and land, was choſen for the place, the feſtival of Pentecoſt for the day, of the meeting: a writ of ſummons was diſpatched to each metropolitan, and a guard was ſtationed to protect and confine the fathers till they ſhould ſettle the myſteries of heaven, and the faith of the earth. Neſtorius appeared not as a criminal, but as a judge; he depended on the weight rather than the

40 Such as the rational Baſnage (ad tom. i. Variar. Lection. Caniſii in Præfat. c. ii. p. 11—23.) and La Croze, the univerſal ſcholar (Chriſtianiſme des Indes, tom. i. p. 16—20. De l'Ethiopie, p. 26, 27. Theſaur. Epiſt. p. 176, &c. 283. 285.). His free ſentence is confirmed by that of his friends Jablonſki (Theſaur. Epiſt. tom. i. p. 193—201.) and Moſheim (idem, p. 304. Neſtorium crimine caruiſſe eſt et mea ſententia); and three more reſpectable judges will not eaſily be found. Aſſeman, a learned and modeſt ſlave, can *hardly* diſcern (Bibliothec. Orient. tom. iv. p. 190—224) the guilt and error of the Neſtorians.

41 The origin and progreſs of the Neſtorian controverſy, till the ſynod of Epheſus, may be found in Socrates (l. vii. c. 32.), Evagrius (l. i. c. 1, 2.), Liberatus (Brev. c. 1—4.), the original Acts (Concil. tom. iii. p. 551—991. edit. Veniſe, 1728), the Annals of Baronius and Pagi, and the faithful collections of Tillemont (Mem. Eccleſ. tom. xiv. p. 283—377.).

number

number of his prelates, and his ſturdy ſlaves from the baths of Zeuxippus were armed for every ſervice of injury or defence. But his adverſary Cyril was more powerful in the weapons both of the fleſh and of the ſpirit. Diſobedient to the letter, or at leaſt to the meaning, of the royal ſummons, he was attended by fifty Egyptian biſhops, who expected from their patriarch's nod the inſpiration of the Holy Ghoſt. He had contracted an intimate alliance with Memnon biſhop of Epheſus. The deſpotic primate of Aſia diſpoſed of the ready ſuccours of thirty or forty epiſcopal votes: a crowd of peaſants, the ſlaves of the church, was poured into the city to ſupport with blows and clamours a metaphyſical argument; and the people zealouſly aſſerted the honour of the Virgin, whoſe body repoſed within the walls of Epheſus [42]. The fleet which had tranſported Cyril from Alexandria was laden with the riches of Egypt; and he diſembarked a numerous body of mariners, ſlaves, and fanatics, enliſted with blind obedience under the banner of St. Mark and the mother of God. The fathers, and even the guards, of the council were awed by this martial array; the adverſaries of Cyril and Mary were inſulted in the ſtreets, or threatened

[42] The Chriſtians of the four firſt centuries were ignorant of the death and burial of Mary. The tradition of Epheſus is affirmed by the ſynod (ἐνθα ὁ θεολογος ἰωαννης, και ἡ θεοτοκος παρθενος ἡ αγια Μαρια. Concil. tom. iii. p. 1102.); yet it has been ſuperſeded by the claim of Jeruſalem; and her *empty* ſepulchre, as it was ſhewn to the pilgrims, produced the fable of her reſurrection and aſſumption, in which the Greek and Latin churches have piouſly acquieſced. See Baronius (Annal. Eccleſ. A. D. 48, N° 6, &c.) and Tillemont (Mem. Eccleſ. tom. i. p. 467—477.).

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in their houſes; his eloquence and liberality made a daily increaſe in the number of his adherents; and the Egyptian ſoon computed that he might command the attendance and the voices of two hundred biſhops [43]. But the author of the twelve anathemas foreſaw and dreaded the oppoſition of John of Antioch, who with a ſmall, though reſpectable, train of metropolitans and divines, was advancing by ſlow journies from the diſtant capital of the Eaſt. Impatient of a delay which he ſtigmatized as voluntary and culpable [44], Cyril announced the opening of the ſynod ſixteen days after the feſtival of Pentecoſt. Neſtorius, who depended on the near approach of his Eaſtern friends, perſiſted, like his predeceſſor Chryſoſtom, to diſclaim the juriſdiction and to diſobey the ſummons of his enemies: they haſtened his trial, and his accuſer preſided in the ſeat of judgment. Sixty-eight biſhops, twenty-two of metropolitan rank, defended his cauſe by a modeſt and temperate proteſt: they were excluded from the counſels of their brethren. Candidian, in the emperor's name, requeſted a delay of four days: the profane ma-

43 The Acts of Chalcedon (Concil. tom. iv. p. 1405. 1408.) exhibit a lively picture of the blind, obſtinate ſervitude of the biſhops of Egypt to their patriarch.

44 Civil or eccleſiaſtical buſineſs detained the biſhops at Antioch till the 18th of May. Epheſus was at the diſtance of thirty days journey; and ten days more may be fairly allowed for accidents and repoſe. The march of Xenophon over the ſame ground enumerates above 260 paraſangs or leagues; and this meaſure might be illuſtrated from ancient and modern itineraries, if I knew how to compare the ſpeed of an army, a ſynod, and a caravan. John of Antioch is reluctantly acquitted by Tillemont himſelf (Mem. Eccleſ. tom. xiv. p. 386—389.).

giſtrate

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giſtrate was driven with outrage and inſult from the aſſembly of the ſaints. The whole of this momentous tranſaction was crowded into the compaſs of a ſummer's day: the biſhops delivered their ſeparate opinions; but the uniformity of ſtyle reveals the influence or the hand of a maſter, who has been accuſed of corrupting the public evidence of their acts and ſubſcriptions [45]. Without a diſſenting voice, they recognized in the epiſtles of Cyril, the Nicene creed and the doctrine of the fathers: but the partial extracts from the letters and homilies of Neſtorius were interrupted by curſes and anathemas: and the heretic was degraded from his epiſcopal and eccleſiaſtical dignity. The ſentence, maliciouſly inſcribed to the new Judas, was affixed and proclaimed in the ſtreets of Epheſus: the weary prelates, as they iſſued from the church of the mother of God, were ſaluted as her champions; and her victory was celebrated by the illuminations, the ſongs, and the tumult of the night.

Condemnation of Neſtorius, June 22.

On the fifth day, the triumph was clouded by the arrival and indignation of the Eaſtern biſhops. In a chamber of the inn, before he had wiped the duſt from his ſhoes, John of Antioch gave audience to Candidian the Imperial miniſter; who related his ineffectual efforts to prevent or to annul the haſty violence of the Egyptian. With equal

Oppoſition of the Orientals, June 27, &c.

45 Μεμφομενον μη κατα το δεον τα εν Εφεσῳ συντεθηναι ὑπομνηματα πανυργια δε και τιν αξεστῳ καινοτομιᾳ Κυριλλε τεχναζοντος. Evagrius, l. i. c. 7. The ſame imputation was urged by count Irenæus (tom. iii. p. 1149.); and the orthodox critics do not find it an eaſy taſk to defend the purity of the Greek or Latin copies of the Acts.

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haſte and violence, the Oriental ſynod of fifty biſhops degraded Cyril and Memnon from their epiſcopal honours, condemned, in the twelve anathemas, the pureſt venom of the Apollinarian hereſy, and deſcribed the Alexandrian primate as a monſter, born and educated for the deſtruction of the church [45]. *His* throne was diſtant and inacceſſible; but they inſtantly reſolved to beſtow on the flock of Epheſus the bleſſing of a faithful ſhepherd. By the vigilance of Memnon, the churches were ſhut againſt them, and a ſtrong garriſon was thrown into the cathedral. The troops, under the command of Candidian, advanced to the aſſault; the outguards were routed and put to the ſword, but the place was impregnable: the beſiegers retired; their retreat was purſued by a vigorous ſally; they loſt their horſes, and many of the ſoldiers were dangerouſly wounded with clubs and ſtones. Epheſus, the city of the Virgin, was defiled with rage and clamour, with ſedition and blood; the rival ſynods darted anathemas and excommunications from their ſpiritual engines; and the court of Theodoſius was perplexed by the adverſe and contradictory narratives of the Syrian and Egyptian factions. During a buſy period of three months, the emperor tried every method, except the moſt effectual means of indifference and contempt, to reconcile this theological quarrel. He

[46] Ὁ δὲ ὠπ' ὀλιθρω των εκκλησιων τεχθεις και τραφεις. After the coalition of John and Cyril, theſe invectives were mutually forgotten. The ſtyle of declamation muſt never be confounded with the genuine ſenſe which reſpectable enemies entertain of each other's merit (Concil. tom. iii. p. 1244.).

2 attempted

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attempted to remove or intimidate the leaders by a common ſentence of acquittal or condemnation; he inveſted his repreſentatives at Epheſus with ample power and military force: he ſummoned from either party eight choſen deputies to a free and candid conference in the neighbourhood of the capital, far from the contagion of popular frenzy. But the Orientals refuſed to yield, and the Catholics, proud of their numbers and of their Latin allies, rejected all terms of union or toleration. The patience of the meek Theodoſius was provoked, and he diſſolved in anger this epiſcopal tumult, which at the diſtance of thirteen centuries aſſumes the venerable aſpect of the third œcumenical council [47]. "God is my witneſs," ſaid the pious prince, "that I am not the author of this "confuſion. His providence will diſcern and "puniſh the guilty. Return to your provinces, "and may your private virtues repair the miſ-"chief and ſcandal of your meeting." They returned to their provinces; but the ſame paſſions which had diſtracted the ſynod of Epheſus were diffuſed over the Eaſtern world. After three obſtinate and equal campaigns, John of Antioch and Cyril of Alexandria condeſcended to explain and embrace: but their ſeeming re-union muſt be imputed rather to prudence than to reaſon, to the

47 See the Acts of the Synod of Epheſus, in the original Greek, and a Latin verſion almoſt contemporary (Concil. tom. iii. p. 991—1339. with the Synodicon adverſus Tragœdiam Irenæi, tom. iv. p. 235—497.), the Eccleſiaſtical Hiſtories of Socrates (l. vii. c. 34.) and Evagrius (l. i. c. 3, 4, 5.), and the Breviary of Liberatus (in Concil. tom. vi. p. 419—459. c. 5, 6.), and the Memoires Eccleſ. of Tillemont (tom. xiv. p. 377—487.).

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mutual laſſitude rather than to the Chriſtian charity of the patriarchs.

Victory of Cyril, A. D. 431—435.

The Byzantine pontiff had inſtilled into the royal ear a baleful prejudice againſt the character and conduct of his Egyptian rival. An epiſtle of menace and invective[48], which accompanied the ſummons, accuſed him as a buſy, inſolent, and envious prieſt, who perplexed the ſimplicity of the faith, violated the peace of the church and ſtate, and, by his artful and ſeparate addreſſes to the wife and ſiſter of Theodoſius, preſumed to ſuppoſe, or to ſcatter, the ſeeds of diſcord in the Imperial family. At the ſtern command of his ſovereign, Cyril had repaired to Epheſus, where he was reſiſted, threatened, and confined, by the magiſtrates in the intereſt of Neſtorius and the Orientals; who aſſembled the troops of Lydia and Ionia to ſuppreſs the fanatic and diſorderly train of the patriarch. Without expecting the royal licenſe, he eſcaped from his guards, precipitately embarked, deſerted the imperfect ſynod, and retired to his epiſcopal fortreſs of ſafety and independence. But his artful emiſſaries, both in the court and city, ſucceſsfully laboured to appeaſe the reſentment, and to conciliate the favour, of the emperor. The feeble ſon of Arcadius was alternately ſwayed by his wife and ſiſter, by the eunuchs and women of the

[48] Ταραχην (ſays the emperor in pointed language) τα τοιαυτα εαυτῳ, και χωρισμον ταις εκκλησιαις εμβιβληκας . . . . ως θρασυτερας ὁρμης πρασσοις μαλλον η ακριβειας . . . . και ποικιλιας μαλλον τουτων ημιν αρχουσης ητηρ απλοτητος . . . . παντος μαλλον η ἱερεως . . . . τα τε των εκκλησιων, τα τε των βασιλειων μελλειν χωριζειν βλεσθαι, ὡς ουκ ὀσης αφορμης ἱερας ευδοκιμησεως. I ſhould be curious to know how much Neſtorius paid for theſe expreſſions, ſo mortifying to his rival.

palace:

palace: ſuperſtition and avarice were their ruling paſſions; and the orthodox chiefs were aſſiduous in their endeavours to alarm the former, and to gratify the latter. Conſtantinople and the ſuburbs were ſanctified with frequent monaſteries, and the holy abbots, Dalmatius and Eutyches [49], had devoted their zeal and fidelity to the cauſe of Cyril, the worſhip of Mary, and the unity of Chriſt. From the firſt moment of their monaſtic life, they had never mingled with the world, or trod the profane ground of the city. But in this awful moment of the danger of the church, their vow was ſuperſeded by a more ſublime and indiſpenſable duty. At the head of a long order of monks and hermits, who carried burning tapers in their hands, and chaunted litanies to the mother of God, they proceeded from their monaſteries to the palace. The people was edified and inflamed by this extraordinary ſpectacle, and the trembling monarch liſtened to the prayers and adjurations of the ſaints, who boldly pronounced, that none could hope for ſalvation, unleſs they embraced the perſon and the creed of the orthodox ſucceſſor of Athanaſius. At the ſame time every avenue of the throne was aſſaulted with gold. Under the decent names of *eulogies* and *benedictions*, the courtiers of both ſexes were bribed according to the meaſure of their power and rapaciouſneſs. But their inceſſant de-

49 Eutyches, the hereſiarch Eutyches, is honourably named by Cyril as a friend, a ſaint, and the ſtrenuous defender of the faith. His brother, the abbot Dalmatius, is likewiſe employed to bind the emperor and all his chamberlains *terribili conjuratione*. Synodicon, c. 203. in Concil. tom. iv. p. 467.

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mands deſpoiled the ſanctuaries of Conſtantinople and Alexandria; and the authority of the patriarch was unable to ſilence the juſt murmur of his clergy, that a debt of ſixty thouſand pounds had already been contracted to ſupport the expence of this ſcandalous corruption [50]. Pulcheria, who relieved her brother from the weight of an empire, was the firmeſt pillar of orthodoxy; and ſo intimate was the alliance between the thunders of the ſynod and the whiſpers of the court, that Cyril was aſſured of ſucceſs if he could diſplace one eunuch, and ſubſtitute another in the favour of Theodoſius. Yet the Egyptian could not boaſt of a glorious or deciſive victory. The emperor, with unaccuſtomed firmneſs, adhered to his promiſe of protecting the innocence of the Oriental biſhops; and Cyril ſoftened his anathemas, and confeſſed, with ambiguity and reluctance, a twofold nature of Chriſt, before he was permitted to ſatiate his revenge againſt the unfortunate Neſtorius [51].

50 Clerici qui hic ſunt contriſtantur, quod eccleſia Alexandrina nudata ſit hujus cauſâ turbelæ: et debet præter illa quæ hinc tranſmiſſa ſint *auri libras mille quingentas*. Et nunc ei ſcriptum eſt ut præſtet; ſed de tuâ eccleſia præſta avaritiæ quorum nolli, &c. This curious and original letter, from Cyril's archdeacon to his creature the new biſhop of Conſtantinople, has been unaccountably preſerved in an old Latin verſion (Synodicon, c. 203. Concil. tom. iv. p. 465—468.). The maſk is almoſt dropped, and the ſaints ſpeak the honeſt language of intereſt and confederacy.

51 The tedious negotiations that ſucceeded the ſynod of Epheſus are diffuſely related in the original Acts (Concil. tom. iii. p. 1339—1771. ad fin. vol. and the Synodicon, in tom. iv.), Socrates (l. vii. c. 28. 35. 40, 41.), Evagrius (l. i. c. 6, 7, 8. 12.), Liberatus (c. 7—10.), Tillemont (Mem. Eccleſ. tom. xiv. p. 487—676.). The moſt patient reader will thank me for compreſſing ſo much nonſenſe and falſehood in a few lines.

The

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Exile of Neſtorius, A.D.435.

The raſh and obſtinate Neſtorius, before the end of the ſynod, was oppreſſed by Cyril, betrayed by the court, and faintly ſupported by his Eaſtern friends. A ſentiment of fear or indignation prompted him, while it was yet time, to affect the glory of a voluntary abdication [52]: his wiſh, or at leaſt his requeſt, was readily granted; he was conducted with honour from Epheſus to his old monaſtery of Antioch; and, after a ſhort pauſe, his ſucceſſors, Maximian and Proclus, were acknowledged as the lawful biſhops of Conſtantinople. But in the ſilence of his cell, the degraded patriarch could no longer reſume the innocence and ſecurity of a private monk. The paſt he regretted, he was diſcontented with the preſent, and the future he had reaſon to dread: the Oriental biſhops ſucceſſively diſengaged their cauſe from his unpopular name, and each day decreaſed the number of the ſchiſmatics who revered Neſtorius as the confeſſor of the faith. After a reſidence at Antioch of four years, the hand of Theodoſius ſubſcribed an edict [53], which ranked him with Simon the magician, proſcribed his opinions and followers, con-

52 Αυτω τε αυδεηθεντος, επιτραπηναι κατα το οικειον επαναζευσαι μοναστηριον. Evagrius, l. i. c. 7. The original letters in the Synodicon (c. 15. 24, 25, 26.) juſtify the *appearance* of a voluntary reſignation, which is aſſerted by Ebed-Jeſu, a Neſtorian writer, apud Aſſeman, Bibliot. Oriental. tom. iii. p. 299. 302.

53 See the Imperial letters in the Acts of the Synod of Epheſus (Concil. tom. iii. p. 1730—1735.). The odious name of *Simonians*, which was affixed to the diſciples of this τυραννικης διδασκαλιας, was deſigned ως αν οικειοις προβληθεντες αιωνιον υποκειμενοιεν τιμωριαν των ἁμαρτηματων, και μητε ζωντας τιμωριας, μητε θανοντας ατιμιας εκτος υπαρχειν. Yet theſe were Chriſtians! who differed only in names and in ſhadows.

demned

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demned his writings to the flames, and baniſhed his perſon firſt to Petra in Arabia, and at length to Oaſis, one of the *iſlands* of the Libyan deſert [54]. Secluded from the church and from the world, the exile was ſtill purſued by the rage of bigotry and war. A wandering tribe of the Blemmyes or Nubians, invaded his ſolitary priſon: in their retreat they diſmiſſed a crowd of uſeleſs captives; but no ſooner had Neſtorius reached the banks of the Nile, than he would gladly have eſcaped from a Roman and orthodox city to the milder ſervitude of the ſavages. His flight was puniſhed as a new crime; the ſoul of the patriarch inſpired the civil and eccleſiaſtical powers of Egypt; the magiſtrates, the ſoldiers, the monks, devoutly tortured the enemy of Chriſt and St. Cyril; and, as far as the confines of Æthiopia, the heretic was alternately dragged and recalled, till his aged body was broken by the hardſhips and accidents of theſe reiterated journies. Yet his mind was ſtill independent and erect; the preſident of Thebais was awed by his paſtoral letters; he ſurvived the Catholic tyrant of Alexandria, and, after ſixteen years baniſhment, the ſynod of Chalcedon would perhaps have reſtored him to the honours, or at leaſt to the

54 The metaphor of iſlands is applied by the grave civilians (Pandect. l. xlviii. tit. 22. leg. 7.) to thoſe happy ſpots which are diſcriminated by water and verdure from the Libyan ſands. Three of theſe under the common name of Oaſis, or Alvahat: 1. The temple of Jupiter Ammon. 2. The middle Oaſis, three days journey to the weſt of Lycopolis. 3. The ſouthern, where Neſtorius was baniſhed, in the firſt climate, and only three days journey from the confines of Nubia. See a learned Note of Michaelis (ad Deſcript. Ægypt. Abulfedæ, p. 21—34.).

commu-

communion, of the church. The death of Neſtorius prevented his obedience to their welcome ſummons[55]; and his diſeaſe might afford ſome colour to the ſcandalous report, that his tongue, the organ of blaſphemy, had been eaten by the worms. He was buried in a city of Upper Egypt, known by the names of Chemnis, or Panopolis, or Akmim[56]; but the immortal malice of the Jacobites has perſevered for ages to caſt ſtones againſt his ſepulchre, and to propagate the fooliſh tradition, that it was never watered by the rain of heaven, which equally deſcends on the righteous and the ungodly[57]. Humanity may drop a tear on the fate of Neſtorius: yet juſtice muſt obſerve, that he ſuffered the perſecution which he had approved and inflicted[58].

55 The invitation of Neſtorius to the ſynod of Chalcedon, is related by Zacharias, biſhop of Melitene (Evagrius, l. ii. c. 2. Aſſeman, Bibliot. Orient. tom. ii. p. 55.), and the famous Xenaias or Philoxenus, biſhop of Hierapolis (Aſſeman. Bibliot. Orient. tom. ii. p. 40, &c.), denied by Evagrius and Aſſeman, and ſtoutly maintained by La Croze (Theſaur. Epiſtol. tom. iii. p. 181, &c.). The fact is not improbable; yet it was the intereſt of the Monophyſites to ſpread the invidious report; and Eutychius (tom. ii. p. 12.) affirms, that Neſtorius died after an exile of ſeven years, and conſequently ten years before the ſynod of Chalcedon.

56 Conſult d'Anville (Memoire ſur l'Egypte, p. 191.), Pocock (Deſcription of the Eaſt, vol. i. p. 76.), Abulfeda (Deſcript. Ægypt. p. 14.) and his commentator Michaelis (Not. p. 78—83.), and the Nubian Geographer (p. 42.), who mentions, in the xiiith century, the ruins and the ſugar-canes of Akmim.

57 Eutychius (Annal. tom. ii. p. 12.) and Gregory Bar-Hebræus, or Abulpharagius (Aſſeman, tom. ii. p. 316.), repreſent the credulity of the xth and xiiith centuries.

58 We are obliged to Evagrius (l. i. c. 7.) for ſome extracts from the letters of Neſtorius; but the lively picture of his ſufferings is treated with inſult by the hard and ſtupid fanatic.

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Hereſy of Eutyches, A. D. 448.

The death of the Alexandrian primate, after a reign of thirty-two years, abandoned the Catholics to the intemperance of zeal and the abuſe of victory [59]. The *monophyſite* doctrine (one incarnate nature) was rigorouſly preached in the churches of Egypt and the monaſteries of the Eaſt; the primitive creed of Apollinaris was protected by the ſanctity of Cyril; and the name of EUTYCHES, his venerable friend, has been applied to the ſect moſt adverſe to the Syrian hereſy of Neſtorius. His rival Eutyches was the abbot, or archimandrite, or ſuperior of three hundred monks, but the opinions of a ſimple and illiterate recluſe might have expired in the cell, where he had ſlept above ſeventy years, if the reſentment or indiſcretion of Flavian the Byzantine pontiff, had not expoſed the ſcandal to the eyes of the Chriſtian world. His domeſtic ſynod was inſtantly convened, their proceedings were ſullied with clamour, and artifice, and the aged heretic was ſurpriſed into a ſeeming confeſſion, that Chriſt had not derived his body from the ſubſtance of the Virgin Mary. From their partial decree, Eutyches appealed to a general council; and his cauſe was vigorouſly aſſerted by his godſon Chryſaphius, the reigning eunuch of the palace, and his accomplice Dioſcorus, who had

59 Dixi Cyrillum dum viveret, auctoritate ſuâ effeciſſe, ne Eutychianiſmus et Monophyſitarum error in nervum erumperet: idque verum puto . . . aliquo . . . honeſto modo παλινῳδίαν cecinerat. The learned but cautious Jablonſki did not always ſpeak the whole truth. Cum Cyrillo lenius omnino egi, quam ſi tecum aut cum aliis rei hujus probe gnaris et æquis rerum æſtimatoribus ſermones privatos conferrem. (Theſaur. Epiſtol. La Crozian. tom. i. p. 197, 198.), an excellent key to his diſſertations on the Neſtorian controverſy!

ſucceeded

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Second council of Epheſus, A. D. 449, Aug. 8—11.

ſucceeded to the throne, the creed, the talents, and the vices of the nephew of Theophilus. By the ſpecial ſummons of Theodoſius, the ſecond ſynod of Epheſus was judiciouſly compoſed of ten metropolitans and ten biſhops from each of the ſix dioceſes of the Eaſtern empire: ſome exceptions of favour or merit enlarged the number to one hundred and thirty-five; and the Syrian Barſumas, as the chief and repreſentative of the monks, was invited to ſit and vote with the ſucceſſors of the apoſtles. But the deſpotiſm of the Alexandrian patriarch again oppreſſed the freedom of debate: the ſame ſpiritual and carnal weapons were again drawn from the arſenals of Egypt; the Aſiatic veterans, a band of archers, ſerved under the orders of Dioſcorus; and the more formidable monks, whoſe minds were inacceſſible to reaſon or mercy, beſieged the doors of the cathedral. The general, and, as it ſhould ſeem, the unconſtrained voice of the fathers, accepted the faith and even the anathemas of Cyril; and the hereſy of the two natures was formally condemned in the perſons and writings of the moſt learned Orientals. "May thoſe "who divide Chriſt, be divided with the ſword, "may they be hewn in pieces, may they be burnt "alive!" were the charitable wiſhes of a Chriſtian ſynod[60]. The innocence and ſanctity of Eutyches

[60] Η ἁγια συνοδος ειπεν, αρον, καυσον Ευσεβιον, ὡτος ζων και ὡτος εις δυο γενηται, ὡς εμεριτε μερισθη . . . . ει τις λεγει δυο αναθεμα. At the requeſt of Dioſcorus, thoſe who were not able to roar (βοησαι), ſtretched out their hands. At Chalcedon, the Orientals diſclaimed theſe exclamations; but the Egyptians more conſiſtently declared ταυτα και τοτε ειπομεν και νυν λεγομεν (Concil. tom. iv. p. 1012.).

were

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were acknowledged without heſitation; but the prelates, more eſpecially thoſe of Thrace and Aſia, were unwilling to depoſe their patriarch for the uſe or even the abuſe of his lawful juriſdiction. They embraced the knees of Dioſcorus, as he ſtood with a threatening aſpect on the footſtool of his throne, and conjured him to forgive the offences, and to reſpect the dignity, of his brother. "Do you "mean to raiſe a ſedition?" exclaimed the relentleſs tyrant. "Where are the officers?" At theſe words a furious multitude of monks and ſoldiers, with ſtaves, and ſwords, and chains, burſt into the church: the trembling biſhops hid themſelves behind the altar, or under the benches, and as they were not inſpired with the zeal of martyrdom, they ſucceſſively ſubſcribed a blank paper, which was afterwards filled with the condemnation of the Byzantine pontiff. Flavian was inſtantly delivered to the wild-beaſts of this ſpiritual amphitheatre: the monks were ſtimulated by the voice and example of Barſumas to avenge the injuries of Chriſt: it is ſaid that the patriarch of Alexandria reviled, and buffeted, and kicked, and trampled his brother of Conſtantinople[61]: it is certain, that the victim, before he could reach the place of his

[61] Ελεγε δε (Euſebius, biſhop of Dorylæum) τον Φλαβιανον και δειλαιως αναιρεθηναι προς Διοσκορε ωθουμενον τε και λακτιζομενον: and this teſtimony of Evagrius (l. ii. c. 2.) is amplified by the hiſtorian Zonaras (tom. ii. l. xiii. p. 44.), who affirms that Dioſcorus kicked like a wild aſs. But the language of Liberatus (Brev. c. 12. in Concil. tom. vi. p. 438.) is more cautious; and the Acts of Chalcedon, which laviſh the names of *homicide*, *Cain*, &c. do not juſtify ſo pointed a charge. The monk Barſumas is more particularly accuſed —ισφαξε τον μακαριον Φλαυιανον αυτος εστηκε και ελεγε, σφαξον (Concil. tom. iv. p. 1413.).

exile,

exile, expired on the third day, of the wounds and bruiſes which he had received at Epheſus. This ſecond ſynod has been juſtly branded as a gang of robbers and aſſaſſins; yet the accuſers of Dioſcorus would magnify his violence, to alleviate the cowardice and inconſtancy of their own behaviour.

Council of Chalcedon, A.D. 451, Oct. 8—Nov. 1.

The faith of Egypt had prevailed: but the vanquiſhed party was ſupported by the ſame pope who encountered without fear the hoſtile rage of Attila and Genſeric. The theology of Leo, his famous *tome* or epiſtle on the myſtery of the incarnation, had been diſregarded by the ſynod of Epheſus: his authority, and that of the Latin church, was inſulted in his legates, who eſcaped from ſlavery and death to relate the melancholy tale of the tyranny of Dioſcorus and the martyrdom of Flavian. His provincial ſynod annulled the irregular proceedings of Epheſus; but as this ſtep was itſelf irregular, he ſolicited the convocation of a general council in the free and orthodox provinces of Italy. From his independent throne, the Roman biſhop ſpoke and acted without danger, as the head of the Chriſtians, and his dictates were obſequiouſly tranſcribed by Placidia and her ſon Valentinian; who addreſſed their Eaſtern colleague to reſtore the peace and unity of the church. But the pageant of Oriental royalty was moved with equal dexterity by the hand of the eunuch; and Theodoſius could pronounce, without heſitation, that the church was already peaceful and triumphant, and that the recent flame had been extinguiſhed by the juſt puniſhment of the Neſtorians. Perhaps the Greeks would be ſtill involved in the hereſy

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hereſy of the Monophyſites, if the emperor's horſe had not fortunately ſtumbled; Theodoſius expired; his orthodox ſiſter, Pulcheria, with a nominal huſband, ſucceeded to the throne; Chryſaphius was burnt, Dioſcorus was diſgraced, the exiles were recalled, and the *tome* of Leo was ſubſcribed by the Oriental biſhops. Yet the pope was diſappointed in his favourite project of a Latin council; he diſdained to preſide in the Greek ſynod, which was ſpeedily aſſembled at Nice in Bithynia; his legates required in a peremptory tone the preſence of the emperor; and the weary fathers were tranſported to Chalcedon under the immediate eye of Marcian and the ſenate of Conſtantinople. A quarter of a mile from the Thracian Boſphorus, the church of St. Euphemia was built on the ſummit of a gentle though lofty aſcent: the triple ſtructure was celebrated as a prodigy of art, and the boundleſs proſpect of the land and ſea might have raiſed the mind of a ſectary to the contemplation of the God of the univerſe. Six hundred and thirty biſhops were ranged in order in the nave of the church; but the patriarchs of the Eaſt were preceded by the legates, of whom the third was a ſimple prieſt; and the place of honour was reſerved for twenty laymen of conſular or ſenatorian rank. The goſpel was oſtentatiouſly diſplayed in the centre, but the rule of faith was defined by the Papal and Imperial miniſters, who moderated the thirteen ſeſſions of the council of Chalcedon [62]. Their

[62] The Acts of the Council of Chalcedon (Concil. tom. iv. p. 761—2071.) comprehend thoſe of Epheſus (p. 890—1189.), which again

Their partial interpoſition ſilenced the intemperate ſhouts and execrations, which degraded the epiſcopal gravity; but, on the formal accuſation of the legates, Dioſcorus was compelled to deſcend from his throne to the rank of a criminal, already condemned in the opinion of his judges. The Orientals, leſs adverſe to Neſtorius than to Cyril, accepted the Romans as their deliverers: Thrace, and Pontus, and Aſia, were exaſperated againſt the murderer of Flavian, and the new patriarchs of Conſtantinople and Antioch ſecured their places by the ſacrifice of their benefactor. The biſhops of Paleſtine, Macedonia, and Greece, were attached to the faith of Cyril; but in the face of the ſynod, in the heat of the battle, the leaders, with their obſequious train, paſſed from the right to the left wing, and decided the victory by this ſeaſonable deſertion. Of the ſeventeen ſuffragans who ſailed from Alexandria, four were tempted from their allegiance, and the thirteen, falling proſtrate on the ground, implored the mercy of the council with ſighs and tears, and a pathetic declaration, that, if they yielded, they ſhould be maſſacred on their return to Egypt by the indignant people. A tardy repentance was allowed to expiate the guilt or error of the accomplices of Dioſcorus: but their

again compriſe the ſynod of Conſtantinople under Flavian (p. 930—1072.); and it requires ſome attention to diſengage this double involution. The whole buſineſs of Eutyches, Flavian, and Dioſcorus, is related by Evagrius (l. i. c. 9—12. and l. ii. c. 1, 2, 3, 4.) and Liberatus (Brev. c. 11, 12, 13, 14.). Once more, and almoſt for the laſt time, I appeal to the diligence of Tillemont (Mem. Eccleſ. tom. xv. p. 479—719.). The Annals of Baronius and Pagi will accompany me much further on my long and laborious journey.

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ſins were accumulated on his head; he neither aſked nor hoped for pardon, and the moderation of thoſe who pleaded for a general amneſty, was drowned in the prevailing cry of victory and revenge. To ſave the reputation of his late adherents, ſome *perſonal* offences were ſkilfully detected; his raſh and illegal excommunication of the pope, and his contumacious refuſal (while he was detained a priſoner) to attend the ſummons of the ſynod. Witneſſes were introduced to prove the ſpecial facts of his pride, avarice, and cruelty; and the fathers heard with abhorrence, that the alms of the church were laviſhed on the female dancers, that his palace, and even his bath, was open to the proſtitutes of Alexandria, and that the infamous Panſophia, or Irene, was publicly entertained as the concubine of the patriarch [63].

Faith of Chalcedon.

For theſe ſcandalous offences Dioſcorus was depoſed by the ſynod, and baniſhed by the emperor: but the purity of his faith was declared in the preſence, and with the tacit approbation, of the fathers.

[63] Μαλιστα ἡ περιβοητος Παησοφια ἡ καλουμενη Ορσινη (perhaps Ειρηνη), περι ἡς και ὁ πολυανθρωπος της Αλεξανδρεων δημος αφηκε φωνην αὐτης τε και τω ἑρασῳ μεμιμημενος (Concil. tom. iv. p. 1276.). A ſpecimen of the wit and malice of the people is preſerved in the Greek Anthology (l. ii. c. 5. p. 188. edit. Wechel), although the application was unknown to the editor Brodæus. The nameleſs epigrammatiſt raiſes a tolerable pun, by confounding the epiſcopal ſalutation of "Peace "be to all!" with the genuine or corrupted name of the biſhop's concubine:

Ειρηνη παντεσσιν επισκοπος ειπεν ἐλθων,
Πως δυναται πασιν ἡ μονος ενδον ἐχει;

I am ignorant whether the patriarch, who ſeems to have been a jealous lover, is the Cimon of a preceding epigram, whoſe πεος ἐγκος was viewed with envy and wonder by Priapus himſelf.

Their

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Their prudence ſuppoſed rather than pronounced the hereſy of Eutyches, who was never ſummoned before their tribunal; and they ſat ſilent and abaſhed, when a bold Monophyſite, caſting at their feet a volume of Cyril, challenged them to anathematize in his perſon the doctrine of the ſaint. If we fairly peruſe the acts of Chalcedon as they are recorded by the orthodox party [64], we ſhall find that a great majority of the biſhops embraced the ſimple unity of Chriſt; and the ambiguous conceſſion, that he was formed OF or FROM two natures, might imply either their previous exiſtence, or their ſubſequent confuſion, or ſome dangerous interval between the conception of the man and the aſſumption of the God. The Roman theology, more poſitive and preciſe, adopted the term moſt offenſive to the ears of the Egyptians, that Chriſt exiſted IN two natures; and this momentous particle [65] (which the memory, rather than the underſtanding, muſt retain) had almoſt produced a

64 Thoſe who reverence the infallibility of ſynods, may try to aſcertain their ſenſe. The leading biſhops were attended by partial or careleſs ſcribes, who diſperſed their copies round the world. Our Greek MSS. are ſullied with the falſe and proſcribed reading of εκ των φυσεων (Concil. tom. iii. p. 1460.): the authentic tranſlation of pope Leo I. does not ſeem to have been executed; and the old Latin verſions materially differ from the preſent Vulgate, which was reviſed (A. D. 550) by Ruſticus, a Roman prieſt, from the beſt MSS. of the Ακοιμητοι at Conſtantinople (Ducange, C. P. Chriſtiana, l. iv. p. 151.), a famous monaſtery of Latins, Greeks, and Syrians. See Concil. tom. iv. p. 1959—2049. and Pagi, Critica, tom. ii. p. 326, &c.

65 It is darkly repreſented in the microſcope of Petavius (tom. v. l. iii. c. 5.); yet the ſubtle theologian is himſelf afraid—ne quis fortaſſe ſupervacaneam, et nimis anxiam putet hujuſmodi vocularum inquiſitionem, et ab inſtituti theologici gravitate alienam (p. 124.).

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ſchiſm among the Catholic biſhops. The *tome* of Leo had been reſpectfully, perhaps ſincerely, ſubſcribed: but they proteſted, in two ſucceſſive debates, that it was neither expedient nor lawful to tranſgreſs the ſacred landmarks which had been fixed at Nice, Conſtantinople, and Epheſus, according to the rule of ſcripture and tradition. At length they yielded to the importunities of their maſters, but their infallible decree, after it had been ratified with deliberate votes and vehement acclamations, was overturned in the next ſeſſion by the oppoſition of the legates and their Oriental friends. It was in vain that a multitude of epiſcopal voices repeated in chorus, "The definition of "the fathers is orthodox and immutable! The "heretics are now diſcovered! Anathema to the "Neſtorians! Let them depart from the ſynod! "Let them repair to Rome[66]!" The legates threatened, the emperor was abſolute, and a committee of eighteen biſhops prepared a new decree, which was impoſed on the reluctant aſſembly. In the name of the fourth general council, the Chriſt in one perſon, but *in* two natures, was announced to the Catholic world: an inviſible line was drawn between the hereſy of Apollinaris and the faith of St. Cyril; and the road to paradiſe, a bridge as ſharp as a razor, was ſuſpended over the abyſs by the maſter-hand of the theological artiſt. During

66 Εβοησαν η ὁ ὁρος κρατειτω η απειρχομεθα . . . οι αντιλεγοντες φανεροι γενανται, οι αντιλεγοντες Νεστοριανοι εισιν, οι αντιλεγοντες εις Ρωμην απελθωσιν (Concil. tom. iv. p. 1449.). Evagrius and Liberatus preſent only the placid face of the ſynod, and diſcreetly ſlide over theſe embers ſuppoſitos cinere doloſo.

ten

ten centuries of blindneſs and ſervitude, Europe received her religious opinions from the oracle of the Vatican; and the ſame doctrine, already varniſhed with the ruſt of antiquity, was admitted without diſpute into the creed of the reformers, who diſclaimed the ſupremacy of the Roman pontiff. The ſynod of Chalcedon ſtill triumphs in the proteſtant churches; but the ferment of controverſy has ſubſided, and the moſt pious Chriſtians of the preſent day are ignorant or careleſs of their own belief concerning the myſtery of the incarnation.

Diſcord of the Eaſt, A. D. 451—482.

Far different was the temper of the Greeks and Egyptians under the orthodox reigns of Leo and Marcian. Thoſe pious emperors enforced with arms and edicts the ſymbol of their faith [67]: and it was declared by the conſcience or honour of five hundred biſhops, that the decrees of the ſynod of Chalcedon might be lawfully ſupported, even with blood. The Catholics obſerved with ſatisfaction, that the ſame ſynod was odious both to the Neſtorians and the Monophyſites [68]; but the Neſtorians were

[67] See, in the Appendix to the Acts of Chalcedon, the confirmation of the ſynod by Marcian (Concil. tom. iv. p. 1781. 1783.); his letters to the monks of Alexandria (p. 1791.), of Mount Sinai (p. 1793.), of Jeruſalem and Paleſtine (p. 1798.); his laws againſt the Eutychians (p. 1809. 1811. 1831.); the correſpondence of Leo with the provincial ſynods on the revolution of Alexandria (p. 1835—1930.).

[68] Photius (or rather Eulogius of Alexandria) confeſſes, in a fine paſſage, the ſpecious colour of this double charge againſt pope Leo and his ſynod of Chalcedon (Bibliot. cod. ccxxv. p. 768.). He waged a double war againſt the enemies of the church, and wounded either foe with the darts of his adverſary—καταλλήλοις βέλεσι τὰς ἀντιπάλους ἔτρωσε. Againſt Neſtorius he ſeemed to introduce the συγχύσεις of the Monophyſites: againſt Eutyches he appeared to countenance

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were leſs angry, or leſs powerful, and the Eaſt was diſtracted by the obſtinate and ſanguinary zeal of the Monophyſites. Jeruſalem was occupied by an army of monks; in the name of the one incarnate nature, they pillaged, they burnt, they murdered; the ſepulchre of Chriſt was defiled with blood; and the gates of the city were guarded in tumultuous rebellion againſt the troops of the emperor. After the diſgrace and exile of Dioſcorus, the Egyptians ſtill regretted their ſpiritual father; and deteſted the uſurpation of his ſucceſſor, who was introduced by the fathers of Chalcedon. The throne of Proterius was ſupported by a guard of two thouſand ſoldiers; he waged a five years war againſt the people of Alexandria; and on the firſt intelligence of the death of Marcian, he became the victim of their zeal. On the third day before the feſtival of Eaſter, the patriarch was beſieged in the cathedral, and murdered in the baptiſtery. The remains of his mangled corpſe were delivered to the flames, and his aſhes to the wind: and the deed was inſpired by the viſion of a pretended angel; an ambitious monk, who, under the name of Timothy the Cat [69], ſucceeded to the place and opinions of Dioſcorus. This deadly ſuperſtition was inflamed, on either ſide, by the principle and

tenance the ὑποστασεων διαφορα of the Neſtorians. The apologiſt claims a charitable interpretation for the ſaints: if the ſame had been extended to the heretics, the *ſound* of the controverſy would have been loſt in the air.

[69] Αιλουρος, from his nocturnal expeditions. In darkneſs and diſguiſe he crept round the cells of the monaſtery, and whiſpered the revelation to his ſlumbering brethren (Theodor. Lector, l. i.).

the

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the practice of retaliation: in the purſuit of a metaphyſical quarrel, many thouſands [70] were ſlain, and the Chriſtians of every degree were deprived of the ſubſtantial enjoyments of ſocial life, and of the inviſible gifts of baptiſm and the holy communion. Perhaps an extravagant fable of the times may conceal an allegorical picture of theſe fanatics, who tortured each other, and themſelves. "Under "the conſulſhip of Venantius and Celer," ſays a grave biſhop, "the people of Alexandria, and all "Egypt, were ſeized with a ſtrange and diabolical "frenzy: great and ſmall, ſlaves and freedmen, "monks and clergy, the natives of the land, who "oppoſed the ſynod of Chalcedon, loſt their "ſpeech and reaſon, barked like dogs, and tore, "with their own teeth, the fleſh from their hands "and arms [71]."

The diſorders of thirty years at length produced the famous HENOTICON [72] of the emperor Zeno, which in his reign, and in that Anaſtaſius, was ſigned by all the biſhops of the Eaſt, under the penalty of degradation and exile, if they rejected or infringed this ſalutary and fundamental law.

The Henoticon of Zeno, A.D. 482.

[70] Φονες τε τολμηθηναι μυριας, αιματων πλησθει μολυνθηναι μη μονον την γην αλλα και αυτον τον αερα. Such is the hyperbolic language of the Henoticon.

[71] See the Chronicle of Victor Tunnunenſis, in the Lectiones Antiquæ of Caniſius, republiſhed by Baſnage, tom. i. p. 326.

[72] The Henoticon is tranſcribed by Evagrius (l. iii. c. 13.), and tranſlated by Liberatus (Brev. c. 18.). Pagi (Critica, tom. ii. p. 411.) and Aſſeman (Bibliot. Orient. tom. i. p. 343.) are ſatisfied that it is free from hereſy; but Petavius (Dogmat. Theolog. tom. v. l. i. c. 13. p. 40.) moſt unaccountably affirms Chalcedonenſem aſcivit. An adverſary would prove that he had never read the Henoticon.

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The clergy may ſmile or groan at the preſumption of a layman who defines the articles of faith; yet if he ſtoops to the humiliating taſk, his mind is leſs infected by prejudice or intereſt, and the authority of the magiſtrate can only be maintained by the concord of the people. It is in eccleſiaſtical ſtory, that Zeno appears leaſt contemptible; and I am not able to diſcern any Manichæan or Eutychian guilt in the generous ſaying of Anaſtaſius, That it was unworthy of an emperor to perſecute the worſhippers of Chriſt and the citizens of Rome. The Henoticon was moſt pleaſing to the Egyptians; yet the ſmalleſt blemiſh has not been deſcribed by the jealous, and even jaundiced, eyes of our orthodox ſchoolmen, and it accurately repreſents the Catholic faith of the incarnation, without adopting or diſclaiming the peculiar terms or tenets of the hoſtile ſects. A ſolemn anathema is pronounced againſt Neſtorius and Eutyches; againſt all heretics by whom Chriſt is divided, or confounded, or reduced to a phantom. Without defining the number or the article of the word *nature*, the pure ſyſtem of St. Cyril, the faith of Nice, Conſtantinople, and Epheſus, is reſpectfully confirmed; but, inſtead of bowing at the name of the fourth council, the ſubject is diſmiſſed by the cenſure of all contrary doctrines, *if* any ſuch have been taught either elſewhere or at Chalcedon. Under this ambiguous expreſſion, the friends and the enemies of the laſt ſynod might unite in a ſilent embrace. The moſt reaſonable Chriſtians acquieſced in this mode of toleration; but their reaſon was feeble and inconſtant, and their

their obedience was deſpiſed as timid and ſervile by the vehement ſpirit of their brethren. On a ſubject which engroſſed the thoughts and diſcourſes of men, it was difficult to preſerve an exact neutrality; a book, a ſermon, a prayer, rekindled the flame of controverſy; and the bonds of communion were alternately broken and renewed by the private animoſity of the biſhops. The ſpace between Neſtorius and Eutyches was filled by a thouſand ſhades of language and opinion; the *acephali* [73] of Egypt, and the Roman pontiffs, of equal valour, though of unequal ſtrength, may be found at the two extremities of the theological ſcale. The acephali, without a king or a biſhop, were ſeparated above three hundred years from the patriarchs of Alexandria, who had accepted the communion of Conſtantinople, without exacting a formal condemnation of the ſynod of Chalcedon. For accepting the communion of Alexandria, without a formal approbation of the ſame ſynod, the patriarchs of Conſtantinople were anathematiſed by the popes. Their inflexible deſpotiſm involved the moſt orthodox of the Greek churches in this ſpiritual contagion, denied or doubted the validity of their ſacraments [74], and

73 See Renaudot (Hiſt. Patriarch. Alex. p. 123. 131. 145. 195. 247.). They were reconciled by the care of Mark I. (A. D. 799—819): he promoted their chiefs to the biſhoprics of Athribis and Talba (perhaps Tava. See d'Anville, p. 82.), and ſupplied the ſacraments, which had failed for want of an epiſcopal ordination.

74 De his quos baptizavit, quos ordinavit Acacius, majorum traditione confectam et veram, præcipue religioſæ ſolicitudini congruam præbemus ſine difficultate medicinam (Galaſius, in epiſt. i. ad Epphemium, Concil. tom. v. p. 286.) The offer of a medicine proves

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and fomented, thirty-five years, the ſchiſm of the Eaſt and Weſt, till they finally aboliſhed the memory of four Byzantine pontiffs, who had dared to oppoſe the ſupremacy of St. Peter [75]. Before that period, the precarious truce of Conſtantinople and Egypt had been violated by the zeal of the rival prelates. Macedonius, who was ſuſpected of the Neſtorian hereſy, aſſerted, in diſgrace and exile, the ſynod of Chalcedon, while the ſucceſſor of Cyril would have purchaſed its overthrow with a bribe of two thouſand pounds of gold.

The Triſagion, and religious war, till the death of Anaſtaſius, A. D. 508—518.

In the ſever of the times, the ſenſe, or rather the ſound, of a ſyllable, was ſufficient to diſturb the peace of an empire. The TRISAGION [76] (thrice holy), "Holy, holy, holy, Lord God of "Hoſts!" is ſuppoſed, by the Greeks, to be the identical hymn which the angels and cherubim eternally repeat before the throne of God, and which, about the middle of the fifth century, was

proves the diſeaſe, and numbers muſt have periſhed before the arrival of the Roman phyſician. Tillemont himſelf (Mem. Eccleſ. tom. xvi. p. 372. 642, &c.) is ſhocked at the proud uncharitable temper of the popes: they are now glad, ſays he, to invoke St. Flavian of Antioch, St. Elias of Jeruſalem, &c. to whom they refuſed communion whilſt upon earth. But cardinal Baronius is firm and hard as the rock of St. Peter.

75 Their names were erazed from the diptych of the church: ex venerabili diptycho, in quo piæ memoriæ tranſitum ad cœlum habentium epiſcoporum vocabula continentur (Concil. tom. iv. p. 1846.). This eccleſiaſtical record was therefore equivalent to the book of life.

76 Petavius (Dogmat. Theolog. tom. v. l. v. c. 2, 3, 4. p. 217—225.) and Tillemont (Mem. Eccleſ. tom. xiv, p. 713, &c. 799.) repreſent the hiſtory and doctrine of the Triſagion. In the twelve centuries between Iſaiah and St. Proclus's boy, who was taken up into heaven before the biſhop and people of Conſtantinople, the ſong was conſiderably improved. The boy heard the angels ſing "Holy "God! Holy ſtrong! Holy immortal!"

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miraculouſly revealed to the church of Conſtantinople. The devotion of Antioch ſoon added, "who was crucified for us!" and this grateful addreſs, either to Chriſt alone, or to the whole Trinity, may be juſtified by the rules of theology, and has been gradually adopted by the Catholics of the Eaſt and Weſt. But it had been imagined by a Monophyſite biſhop[77]; the gift of an enemy was at firſt rejected as a dire and dangerous blaſphemy, and the raſh innovation had nearly coſt the emperor Anaſtaſius his throne and his life[78]. The people of Conſtantinople was devoid of any rational principles of freedom; but they held, as a lawful cauſe of rebellion, the colour of a livery in the races, or the colour of a myſtery in the ſchools. The Triſagion, with and without this obnoxious addition, was chaunted in the cathedral by two adverſe choirs, and, when their lungs were exhauſted, they had recourſe to the more ſolid arguments of ſticks and ſtones: the aggreſſors were puniſhed by the emperor, and defended by the patriarch; and the crown and mitre were ſtaked on the event of this momentous quarrel. The ſtreets were inſtantly crowded with innumerable ſwarms of men, women, and children; the legions of monks, in regular array, marched, and ſhouted, and fought at their

77 Peter Gnapheus, the *fuller* (a trade which he had exerciſed in his monaſtery), patriarch of Antioch. His tedious ſtory is diſcuſſed in the Annals of Pagi (A. D. 477—490) and a Diſſertation of M. de Valois at the end of his Evagrius.

78 The troubles under the reign of Anaſtaſius muſt be gathered from the Chronicles of Victor, Marcellinus, and Theophanes. As the laſt was not publiſhed in the time of Baronius, his critic Pagi is more copious, as well as more correct.

head.

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head. "Chriſtians! this is the day of martyr-
"dom; let us not deſert our ſpiritual father; ana-
"thema to the Manichæan tyrant; he is un-
"worthy to reign." Such was the Catholic cry; and the gallies of Anaſtaſius lay upon their oars before the palace, till the patriarch had pardoned his penitent, and huſhed the waves of the troubled multitude. The triumph of Macedonius was checked by a ſpeedy exile; but the zeal of his flock was again exaſperated by the ſame queſtion, "Whether one of the Trinity had been crucified?" On this momentous occaſion, the blue and green factions of Conſtantinople ſuſpended their diſcord, and the civil and military powers were annihilated in their preſence. The keys of the city, and the ſtandards of the guards, were depoſited in the forum of Conſtantine, the principal ſtation and camp of the faithful. Day and night they were inceſſantly buſied either in ſinging hymns to the honour of their God, or in pillaging and murdering the ſervants of their prince. The head of his favourite monk, the friend, as they ſtyled him, of the enemy of the Holy Trinity, was borne aloft on a ſpear; and the firebrands which had been darted againſt heretical ſtructures, diffuſed the undiſtinguiſhing flames over the moſt orthodox buildings. The ſtatues of the emperor were broken, and his perſon was concealed in a ſuburb, till, at the end of three days, he dared to implore the mercy of his ſubjects. Without his diadem, and in the poſture of a ſuppliant, Anaſtaſius appeared on the throne of the circus. The Catholics, before his face, rehearſed their genuine Triſagion;

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gion; they exulted in the offer which he proclaimed by the voice of a herald, of abdicating the purple; they liſtened to the admonition, that, ſince *all* could not reign, they ſhould previouſly agree in the choice of a ſovereign; and they accepted the blood of two unpopular miniſters, whom their maſter, without heſitation, condemned to the lions. Theſe furious but tranſient ſeditions were encouraged by the ſucceſs of Vitalian, who, with an army of Huns and Bulgarians, for the moſt part idolaters, declared himſelf the champion of the Catholic faith. In this pious rebellion he depopulated Thrace, beſieged Conſtantinople, exterminated ſixty-five thouſand of his fellow-Chriſtians, till he obtained the recall of the biſhops, the ſatisfaction of the pope, and the eſtabliſhment of the council of Chalcedon, an orthodox treaty, reluctantly ſigned by the dying Anaſtaſius, and more faithfully performed by the uncle of Juſtinian. And ſuch was the event of the *firſt* of the religious wars, which have been waged in the name, and by the diſciples, of the God of Peace [79].

First religious war, A.D. 514.

Juſtinian has been already ſeen in the various lights of a prince, a conqueror, and a lawgiver:

Theological character and

79 The general hiſtory, from the council of Chalcedon to the death of Anaſtaſius, may be found in the Breviary of Liberatus (c. 14—19.), the iid and iiid books of Evagrius, the Abſtract of the two books of Theodore the Reader, the Acts of the Synods, and the Epiſtles of the Popes (Concil. tom. v.). The ſeries is continued with ſome diſorder in the xvth and xvith tomes of the Memoires Eccleſiaſtiques of Tillemont. And here I muſt take leave for ever of that incomparable guide—whoſe bigotry is overbalanced by the merits of erudition, diligence, veracity, and ſcrupulous minuteneſs. He was prevented by death from completing, as he deſigned, the vith century of the church and empire.

the

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government of Juſtinian, A. D. 519—565.

the theologian [80] ſtill remains, and it affords an unfavourable prejudice, that his theology ſhould form a very prominent feature of his portrait. The ſovereign ſympathiſed with his ſubjects in their ſuperſtitious reverence for living and departed ſaints: his Code, and more eſpecially his Novels, confirm and enlarge the privileges of the clergy; and in every diſpute between a monk and a layman, the partial judge was inclined to pronounce, that truth, and innocence, and juſtice, were always on the ſide of the church. In his public and private devotions, the emperor was aſſiduous and exemplary; his prayers, vigils, and faſts, diſplayed the auſtere penance of a monk; his fancy was amuſed by the hope, or belief, of perſonal inſpiration; he had ſecured the patronage of the Virgin and St. Michael the archangel; and his recovery from a dangerous diſeaſe was aſcribed to the miraculous ſuccour of the holy martyrs Coſmas and Damian. The capital and the provinces of the Eaſt were decorated with the monuments of his religion [81]; and, though the far greater part of theſe coſtly ſtructures may be attributed to his taſte or oſtentation, the zeal of the royal architect was probably quickened by a genuine ſenſe of love and gratitude towards his inviſible benefactors. Among

[80] The ſtrain of the Anecdotes of Procopius (c. 11. 13. 18. 27, 28.), with the learned remarks of Alemannus, is confirmed, rather than contradicted, by the Acts of the Councils, the fourth book of Evagrius, and the complaints of the African Facundus in his xiith book—de tribus capitulis, "cum videri doctus appetit importune . . . "ſpontaneis quæſtionibus eccleſiam turbat." See Procop. de Bell. Goth. l. iii. c. 35.

[81] Procop. de Edificiis, l. i. c. 6, 7, &c. paſſim.

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the titles of Imperial greatneſs, the name of *Pious* was moſt pleaſing to his ear; to promote the temporal and ſpiritual intereſt of the church, was the ſerious buſineſs of his life; and the duty of father of his country was often ſacrificed to that of defender of the faith. The controverſies of the times were congenial to his temper and underſtanding; and the theological profeſſors muſt inwardly deride the diligence of a ſtranger, who cultivated their art and neglected his own. "What can ye "fear," ſaid a bold conſpirator to his aſſociates, "from your bigoted tyrant? Sleepleſs and unarmed he ſits whole nights in his cloſet, debating with reverend greybeards, and turning over "the pages of eccleſiaſtical volumes[82]." The fruits of theſe lucubrations were diſplayed in many a conference, where Juſtinian might ſhine as the loudeſt and moſt ſubtle of the diſputants; in many a ſermon, which, under the name of edicts and epiſtles, proclaimed to the empire the theology of their maſter. While the Barbarians invaded the provinces, while the victorious legions marched under the banners of Beliſarius and Narſes, the ſucceſſor of Trajan, unknown to the camp, was content to vanquiſh at the head of a ſynod. Had he invited to theſe ſynods a diſintereſted and rational ſpectator, Juſtinian might have learned, "*that* religious controverſy is the offspring of

[82] Ὁς δὲ καθηται αφυλακτος ες αει επι λεσχης τινος αωρι νυκτων ὁμου τοις των ἱερεων γερουσιν ασχετον ανακυκλειν τα Χριστιανων λογια σπουδην εχων. Procop. de Bell. Goth. l. iii. c. 32. In the life of St. Eutychius (apud Aleman. ad Procop. Arcan. c. 18.), the ſame character is given with a deſign to praiſe Juſtinian.

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" arrogance and folly; *that* true piety is moſt " laudably expreſſed by ſilence and ſubmiſſion; " *that* man, ignorant of his own nature, ſhould " not preſume to ſcrutiniſe the nature of his God; " and, *that* it is ſufficient for us to know, that " power and benevolence are the perfect attributes " of the Deity [83]."

His perſecution

Toleration was not the virtue of the times, and indulgence to rebels has ſeldom been the virtue of princes. But when the prince deſcends to the narrow and peeviſh character of a diſputant, he is eaſily provoked to ſupply the defect of argument by the plenitude of power, and to chaſtiſe without mercy the perverſe blindneſs of thoſe who wilfully ſhut their eyes againſt the light of demonſtration. The reign of Juſtinian was an uniform, yet various ſcene of perſecution; and he appears to have ſurpaſſed his indolent predeceſſors, both in the contrivance of his laws and the rigour of their execution. The inſufficient term of three months was aſſigned for the converſion or exile of all heretics [84]; and if he ſtill connived at their precarious ſtay, they were deprived, under his iron yoke, not

of heretics;

[83] For theſe wiſe and moderate ſentiments, Procopius (de Bell. Goth. l. i. c. 3.) is ſcourged in the Preface of Alemannus, who ranks him among the *political* Chriſtians—ſed longe verius hæreſum omnium ſentinas, prorſuſque Atheos—abominable Atheiſts who preached the imitation of God's mercy to man (ad Hiſt. Arean. c. 13.).

[84] This alternative, a precious circumſtance, is preſerved by John Malala (tom. ii. p. 63. edit. Venet. 1733), who deſerves more credit as he draws towards his end. After numbering the heretics, Neſtorians, Eutychians, &c. ne expectent, ſays Juſtinian, ut digni veniâ judicentur: jubemus enim ut . . . convicti et aperti hæretici juſtæ et idoneæ animadverſioni ſubjiciantur. Baronius copies and applauds this edict of the Code (A.D. 527, N° 39, 40.).

only of the benefits of ſociety, but of the common birth-right of men and Chriſtians. At the end of four hundred years, the Montaniſts of Phrygia[85] ſtill breathed the wild enthuſiaſm of perfection and prophecy, which they had imbibed from their male and female apoſtles, the ſpecial organs of the Paraclete. On the approach of the Catholic prieſts and ſoldiers, they graſped with alacrity the crown of martyrdom; the conventicle and the congregation periſhed in the flames, but theſe primitive fanatics were not extinguiſhed three hundred years after the death of their tyrant. Under the protection of the Gothic confederates, the church of the Arians at Conſtantinople had braved the ſeverity of the laws: their clergy equalled the wealth and magnificence of the ſenate; and the gold and ſilver which were ſeized by the rapacious hand of Juſtinian might perhaps be claimed as the ſpoils of the provinces and the trophies of the Barbarians. A ſecret remnant of Pagans, who ſtill lurked in the moſt refined and the moſt ruſtic conditions of mankind, excited the indignation of the Chriſtians, who were perhaps unwilling that any ſtrangers ſhould be the witneſſes of their inteſtine quarrels. A biſhop was named as the inquiſitor of the faith, and his diligence ſoon diſcovered in the court and city, the magiſtrates, lawyers, phyſicians, and ſophiſts, who ſtill cheriſhed the ſuperſtition of the Greeks. They were ſternly informed that they muſt chuſe without delay between the diſpleaſure

of Pagans.

85 See the character and principles of the Montaniſts, in Moſheim, de Rebus Chriſt. ante Conſtantinum, p. 410—424.

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of Jupiter or Juſtinian, and that their averſion to the goſpel could no longer be diſguiſed under the ſcandalous maſk of indifference or impiety. The patrician Photius perhaps alone was reſolved to live and to die like his anceſtors: he enfranchiſed himſelf with the ſtroke of a dagger, and left his tyrant the poor conſolation of expoſing with ignominy the lifeleſs corpſe of the fugitive. His weaker brethren ſubmitted to their earthly monarch, underwent the ceremony of baptiſm, and laboured, by their extraordinary zeal, to eraze the ſuſpicion, or to expiate the guilt, of idolatry. The native country of Homer, and the theatre of the Trojan war, ſtill retained the laſt ſparks of his mythology: by the care of the ſame biſhop, ſeventy thouſand Pagans were detected and converted in Aſia, Phrygia, Lydia, and Caria; ninety-ſix churches were built for the new proſelytes; and linen veſtments, bibles, and liturgies, and vaſes of gold and ſilver, were ſupplied by the pious munificence of Juſtinian [86]. The Jews, who had been gradually ſtripped of their immunities, were oppreſſed by a vexatious law, which compelled them to obſerve the feſtival of Eaſter the ſame day on which it was celebrated by the Chriſtians [87]. And they might

of Jews;

[86] Theophan. Chron. p. 153. John the Monophyſite biſhop of Aſia, is a more authentic witneſs of this tranſaction, in which he was himſelf employed by the emperor (Aſſeman. Bib. Orient. tom. ii. p. 85.).

[87] Compare Procopius (Hiſt. Arcan. c. 28. and Aleman's Notes) with Theophanes (Chron. p. 190.). The council of Nice has entruſted the patriarch, or rather the aſtronomers, of Alexandria, with the annual proclamation of Eaſter; and we ſtill read, or rather we do not read, many of the Paſchal epiſtles of St. Cyril. Since the reign of Mono-

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might complain with the more reaſon, ſince the Catholics themſelves did not agree with the aſtronomical calculations of their ſovereign: the people of Conſtantinople delayed the beginning of their Lent a whole week after it had been ordained by authority; and they had the pleaſure of faſting ſeven days, while meat was expoſed for ſale by the command of the emperor. The Samaritans of Paleſtine [88] were a motley race, an ambiguous ſect, rejected as Jews by the Pagans, by the Jews as ſchiſmatics, and by the Chriſtians as idolaters. The abomination of the croſs had already been planted on their holy mount of Garizim [89], but the perſecution of Juſtinian offered only the alternative of baptiſm or rebellion. They choſe the latter: under the ſtandard of a deſperate leader, they roſe in arms, and retaliated their wrongs on the lives, the property, and the temples of a defenceleſs people. The Samaritans were finally ſubdued by the regular forces of the Eaſt: twenty thouſand were ſlain, twenty thouſand were ſold by the Arabs to the infidels of Perſia and India, and the remains of that unhappy nation atoned for the crime of treaſon by the ſin of

of Samaritans.

Monophytiſm in Egypt, the Catholics were perplexed by ſuch a fooliſh prejudice as that which ſo long oppoſed, among the Proteſtants, the reception of the Gregorian ſtyle.

88 For the religion and hiſtory of the Samaritans, conſult Baſnage, Hiſtoire des Juifs, a learned and impartial work.

89 Sichem, Neapolis, Naplous, the ancient and modern ſeat of the Samaritans, is ſituate in a valley between the barren Ebal, the mountain of curſing to the north, the fruitful *Garizim*, or mountain of curſing to the ſouth, ten or eleven hours travel from Jeruſalem. See Maundrel, Journey from Aleppo, &c. p. 59—63.

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hypocriſy. It has been computed that one hundred thouſand Roman ſubjects were extirpated in the Samaritan war [90], which converted the once-fruitful province into a deſolate and ſmoking wilderneſs. But in the creed of Juſtinian, the guilt of murder could not be applied to the ſlaughter of unbelievers; and he piouſly laboured to eſtabliſh with fire and ſword the unity of the Chriſtian faith [91].

His orthodoxy.

With theſe ſentiments, it was incumbent on him, at leaſt, to be always in the right. In the firſt years of his adminiſtration, he ſignaliſed his zeal as the diſciple and patron of orthodoxy: the reconciliation of the Greeks and Latins eſtabliſhed the *tome* of St. Leo as the creed of the emperor and the empire; the Neſtorians and Eutychians were expoſed, on either ſide, to the double edge of perſecution; and the four ſynods, of Nice, Conſtantinople, Epheſus, and *Chalcedon*, were ratified by the code of a Catholic lawgiver [92]. But while Juſtinian ſtrove to maintain the uniformity of faith and worſhip, his wife Theodora, whoſe vices were not incompatible with devotion, had liſtened

[90] Procop. Anecdot. c. 11. Theophan. Chron. p. 152. John Malala, Chron. tom. ii. p. 62. I remember an obſervation, half philoſophical, half ſuperſtitious, that the province which had been ruined by the bigotry of Juſtinian was the ſame through which the Mahometans penetrated into the empire.

[91] The expreſſion of Procopius is remarkable: ὃ γαρ ὀι εδοκει φονος ανθρωπον ειναι, ηγε μη της αυτε δοξης ὀι τελευτωντες τυχοιεν οντες. Anecdot. c. 13.

[92] See the Chronicle of Victor, p. 328. and the original evidence of the laws of Juſtinian. During the firſt years of his reign, Baronius himſelf is in extreme good humour with the emperor, who courted the popes till he got them into his power.

to

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to the Monophyſite teachers; and the open or clandeſtine enemies of the church revived and multiplied at the ſmile of their gracious patroneſs. The capital, the palace, the nuptial bed, were torn by ſpiritual diſcord; yet ſo doubtful was the ſincerity of the royal conſorts, that their ſeeming diſagreement was imputed by many to a ſecret and miſchievous confederacy againſt the religion and happineſs of their people [93]. The famous diſpute of the THREE CHAPTERS [94], which has filled more volumes than it deſerves lines, is deeply marked with this ſubtle and diſingenuous ſpirit. It was now three hundred years ſince the body of Origen [95] had been eaten by the worms: his ſoul, of which he held the pre-exiſtence, was in the hands of its Creator, but his writings were eagerly

The three chapters, A. D. 532—698.

93 Procopius, Anecdot. c. 13. Evagrius, l. iv. c. 10. If the eccleſiaſtical never read the ſecret hiſtorian, their common ſuſpicion proves at leaſt the general hatred.

94 On the ſubject of the three chapters, the original acts of the vth general council of Conſtantinople ſupply much uſeleſs, though authentic, knowledge (Concil. tom. vi. p. 1—419.). The *Greek* Evagrius is leſs copious and correct (l. iv. c. 38.) than the three zealous *Africans*, Facundus (in his twelve books, de tribus capitulis, which are moſt correctly publiſhed by Sirmond), Liberatus (in his Breviarium, c. 22, 23, 24.), and Victor Tununenſis in his Chroniele (in tom. i. Antiq. Lect. Caniſii, p. 330—334.). The Liber Pontificalis, or Anaſtaſius (in Vigilio, Pelagio, &c.), is original, *Italian* evidence. The modern reader will derive ſome information from Dupin (Bibliot. Eccleſ. tom. v. p. 189—207.) and Baſnage (Hiſt. de l'Egliſe, tom. i. p. 519—541.); yet the latter is too firmly reſolved to depreciate the authority and character of the popes.

95 Origen had indeed too great a propenſity to imitate the πλανη and δυσσεβεια of the old philoſophers (Juſtinian, ad Mennam, in Concil. tom. vi. p. 356.). His moderate opinions were too repugnant to the zeal of the church, and he was found guilty of the hereſy of reaſon.

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peruſed by the monks of Paleſtine. In theſe writings, the piercing eye of Juſtinian deſcried more than ten metaphyſical errors; and the primitive doctor, in the company of Pythagoras and Plato, was devoted by the clergy to the *eternity* of hell-fire, which he had preſumed to deny. Under the cover of this precedent, a treacherous blow was aimed at the council of Chalcedon. The fathers had liſtened without impatience to the praiſe of Theodore of Mopſueſtia [96]; and their juſtice or indulgence had reſtored both Theodoret of Cyrrhus, and Ibas of Edeſſa, to the communion of the church. But the characters of theſe Oriental biſhops were tainted with the reproach of hereſy; the firſt had been the maſter, the two others were the friends, of Neſtorius: their moſt ſuſpicious paſſages were accuſed under the title of the *three chapters*; and the condemnation of their memory muſt involve the honour of a ſynod, whoſe name was pronounced with ſincere or affected reverence by the Catholic world. If theſe biſhops, whether innocent or guilty, were annihilated in the ſleep of death, they would not probably be awakened by the clamour, which after an hundred years was raiſed over their grave. If they were already in the fangs of the dæmon, their torments could

[96] Baſnage (Præfat. p. 11—14. ad tom. i. Antiq. Lect. Canif.) has fairly weighed the guilt and innocence of Theodore of Mopſueſtia. If he compoſed 10,000 volumes, as many errors would be a charitable allowance. In all the ſubſequent catalogues of hereſiarchs, he alone, without his two brethren, is included; and it is the duty of Aſſeman (Bibliot. Orient. tom. iv. p. 203—207.) to juſtify the ſentence.

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neither be aggravated nor aſſuaged by human induſtry. If in the company of ſaints and angels they enjoyed the rewards of piety, they muſt have ſmiled at the idle fury of the theological inſects who ſtill crawled on the ſurface of the earth. The foremoſt of theſe inſects, the emperor of the Romans, darted his ſting, and diſtilled his venom, perhaps without diſcerning the true motives of Theodora and her eccleſiaſtical faction. The victims were no longer ſubject to his power, and the vehement ſtyle of his edicts could only proclaim their damnation, and invite the clergy of the Eaſt to join in a full chorus of curſes and anathemas. The Eaſt, with ſome heſitation, conſented to the voice of her ſovereign: the fifth general council, of three patriarchs and one hundred and ſixty-five biſhops, was held at Conſtantinople; and the authors, as well as the defenders, of the three chapters were ſeparated from the communion of the ſaints, and ſolemnly delivered to the prince of darkneſs. But the Latin churches were more jealous of the honour of Leo and the ſynod of Chalcedon; and if they had fought as they uſually did under the ſtandard of Rome, they might have prevailed in the cauſe of reaſon and humanity. But their chief was a priſoner in the hands of the enemy; the throne of St. Peter, which had been diſgraced by the ſimony, was betrayed by the cowardice, of Vigilius, who yielded, after a long and inconſiſtent ſtruggle, to the deſpotiſm of Juſtinian and the ſophiſtry of the Greeks. His apoſtacy provoked the indignation of the Latins, and no more than two biſhops could be found

Vth general council: IId of Conſtantinople, A.D. 553, May 4—June 2.

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who would impoſe their hands on his deacon and ſucceſſor Pelagius. Yet the perſeverance of the popes inſenſibly transferred to their adverſaries the appellation of ſchiſmatics: the Illyrian, African, and Italian churches, were oppreſſed by the civil and eccleſiaſtical powers, not without ſome effort of military force [97]; the diſtant Barbarians tranſcribed the creed of the Vatican, and in the period of a century, the ſchiſm of the three chapters expired in an obſcure angle of the Venetian province [98]. But the religious diſcontent of the Italians had already promoted the conqueſts of the Lombards, and the Romans themſelves were accuſtomed to ſuſpect the faith, and to deteſt the government, of their Byzantine tyrant.

Hereſy of Juſtinian, A. D. 564.

Juſtinian was neither ſteady nor conſiſtent in the nice proceſs of fixing his volatile opinions and thoſe of his ſubjects. In his youth, he was offended by the ſlighteſt deviation from the orthodox line; in his old age he tranſgreſſed the meaſure of temperate hereſy, and the Jacobites, not leſs than the

97 See the complaints of Liberatus and Victor, and the exhortations of pope Pelagius to the conqueror and exarch of Italy. Schiſma . . . . per poteſtates publicas opprimatur, &c. (Concil. tom. vi. p. 467, &c.). An army was detained to ſuppreſs the ſedition of an Illyrian city. See Procopius (de Bell. Goth. l. iv. c. 25.): ὧν περ ἕνεκα σφίσιν αὐτοις οἱ Χριστιανοι διαμαχονται. He ſeems to promiſe an eccleſiaſtical hiſtory. It would have been curious and impartial.

98 The biſhops of the patriarchate of Aquileia were reconciled by pope Honorius, A. D. 638 (Muratori, Annali d'Italia, tom. v. p. 376.); but they again relapſed, and the ſchiſm was not finally extinguiſhed till 698. Fourteen years before, the church of Spain had overlooked the vth general council with contemptuous ſilence (xiii Concil. Toletan. in Concil. tom. vii. p. 487—494.).

5 Catholics,

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Catholics, were ſcandalized by his declaration, that the body of Chriſt was incorruptible, and that his manhood was never ſubject to any wants and infirmities, the inheritance of our mortal fleſh. This *phantaſtic* opinion was announced in the laſt edicts of Juſtinian; and at the moment of his ſeaſonable departure, the clergy had refuſed to ſubſcribe, the prince was prepared to perſecute, and the people were reſolved to ſuffer or reſiſt. A biſhop of Treves, ſecure beyond the limits of his power, addreſſed the monarch of the Eaſt in the language of authority and affection. "Moſt gra-
"cious Juſtinian, remember your baptiſm and
"your creed! Let not your grey hairs be defiled
"with hereſy. Recall your fathers from exile,
"and your followers from perdition. You can-
"not be ignorant that Italy and Gaul, Spain and
"Africa, already deplore your fall and anathema-
"tiſe your name. Unleſs, without delay, you
"deſtroy what you have taught; unleſs you ex-
"claim with a loud voice, I have erred, I have
"ſinned, anathema to Neſtorius, anathema to
"Eutyches, you deliver your ſoul to the ſame
"flames in which *they* will eternally burn." He died and made no ſign [99]. His death reſtored in ſome degree the peace of the church, and the reigns of his four ſucceſſors, Juſtin, Tiberius,

99 Nicetius, biſhop of Treves (Concil. tom. vi. p. 511—513.): he himſelf, like moſt of the Gallican prelates (Gregor. Epiſt. l. vii. ep. 5. in Concil. tom. vi. p. 1007.), was ſeparated from the communion of the four patriarchs by his refuſal to condemn the three chapters. Baronius almoſt pronounces the damnation of Juſtinian (A. D. 565, N° 6.).

Maurice,

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Maurice, and Phocas, are diſtinguiſhed by a rare, though fortunate vacancy in the eccleſiaſtical hiſtory of the Eaſt [100].

The Monothelite controverſy, A. D. 629.

The faculties of ſenſe and reaſon are leaſt capable of acting on themſelves; the eye is moſt inacceſſible to the ſight, the ſoul to the thought; yet we think, and even feel, that *one will*, a ſole principle of action, is eſſential to a rational and conſcious being. When Heraclius returned from the Perſian war, the orthodox hero conſulted his biſhops, whether the Chriſt whom he adored, of one perſon, but of two natures, was actuated by a ſingle or a double will. They replied in the ſingular, and the emperor was encouraged to hope that the Jacobites of Egypt and Syria might be reconciled by the profeſſion of a doctrine, moſt certainly harmleſs, and moſt probably true, ſince it was taught even by the Neſtorians themſelves [101]. The experiment was tried without effect, and the timid or vehement Catholics condemned even the ſemblance of a retreat in the preſence of a ſubtle and audacious enemy. The orthodox (the pre-

100 After relating the laſt hereſy of Juſtinian (l. iv. c. 39, 40, 41.) and the edict of his ſucceſſor (l. v. c. 3.), the remainder of the hiſtory of Evagrius is filled with civil, inſtead of eccleſiaſtical, events.

101 This extraordinary, and perhaps inconſiſtent, doctrine of the Neſtorians, had been obſerved by La Croze (Chriſtianiſme des Indes, tom. i. p. 19, 20.), and is more fully expoſed by Abulpharagius (Bibliot. Orient. tom. ii. p. 292. Hiſt. Dynaſt. p. 91. verſ. Latin. Pocock) and Aſſeman himſelf (tom. iv. p. 218.). They ſeem ignorant that they might allege the poſitive authority of the eccheſis. Ὁ μακάριος Νεστόριος καινὴν διαιρῶν τὴν θείαν τοῦ Κυρίου ἀνθρώπησιν, καὶ δύο ὑπάγων υἱούς (the common reproach of the Monophyſites), δύο θελήματα τούτων εἶπεν ἂν ἐτόλμησε, τοιαῦτον δὲ ταῦτο βιβλίον τῶν . . . . δύο προσώπων ἐδόξασε (Concil. tom. vii. p. 295.).

vailing)

vailing) party deviſed new modes of ſpeech, and argument, and interpretation: to either nature of Chriſt, they ſpeciouſly applied a proper and diſtinct energy; but the difference was no longer viſible when they allowed that the human and the divine will were invariably the ſame [102]. The diſeaſe was attended with the cuſtomary ſymptoms; but the Greek clergy, as if ſatiate with the endleſs controverſy of the incarnation, inſtilled a healing counſel into the ear of the prince and people. They declared themſelves MONOTHELITES (aſſerters of the unity of will), but they treated the words as new, the queſtions as ſuperfluous; and recommended a religious ſilence as the moſt agreeable to the prudence and charity of the goſpel. This law of ſilence was ſucceſſively impoſed by the *ecthe ſis* or expoſition of Heraclius, the *type* or model of his grandſon Conſtans [103]; and the Imperial edicts were ſubſcribed with alacrity or reluctance by the four patriarchs of Rome, Conſtantinople, Alexandria, and Antioch. But the biſhop and monks of Jeruſalem ſounded the alarm: in the language, or even in the ſilence, of the Greeks, the Latin churches detected a latent hereſy: and the obe-

The ecthesis of Heraclius, A.D. 639. The type of Conſtans, A.D. 648.

[102] See the orthodox faith in Petavius (Dogmata Theolog. tom. v. l. ix. c. 6—10. p. 433—447.): all the depths of this controverſy are ſounded in the Greek dialogue between Maximus and Pyrrhus (ad calcem tom. viii. Annal. Baron. p. 755—794.), which relates a real conference, and produced as a ſhort-lived converſion.

[103] Impiiſſimam ecthesim .... ſceleroſum typum (Concil. tom. vii. p. 366.) diabolicæ operationis genimina (forſ. *germina*, or elſe the Greek γενηματα, in the original. Concil. p. 363, 364.) are the expreſſions of the xviiith anathema. The epiſtle of Pope Martin to Amandus, a Gallican biſhop, ſtigmatiſes the Monothelites and their hereſy with equal virulence (p. 392.).

dience

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dience of pope Honorius to the commands of his ſovereign was retracted and cenſured by the bolder ignorance of his ſucceſſors. They condemned the execrable and abominable hereſy of the Monotheliteſ, who revived the errors of Manes, Apollinaris, Eutyches, &c. they ſigned the ſentence of excommunication on the tomb of St. Peter; the ink was mingled with the ſacramental wine, the blood of Chriſt; and no ceremony was omitted that could fill the ſuperſtitious mind with horror and affright. As the repreſentative of the weſtern church, pope Martin and his Lateran ſynod anathematiſed the perfidious and guilty ſilence of the Greeks: one hundred and five biſhops of Italy, for the moſt part the ſubjects of Conſtans, preſumed to reprobate his wicked *type* and the impious *ecthesis* of his grandfather, and to confound the authors and their adherents with the twenty-one notorious heretics, the apoſtates from the church, and the organs of the devil. Such an inſult under the tameſt reign could not paſs with impunity. Pope Martin ended his days on the inhoſpitable ſhore of the Tauric Cherſoneſus, and his oracle, the abbot Maximus, was inhumanly chaſtiſed by the amputation of his tongue and his right-hand [104]. But the ſame invincible ſpirit ſurvived in their ſucceſſors, and the triumph of the Latins avenged

[104] The ſufferings of Martin and Maximus are deſcribed with pathetic ſimplicity in their original letters and acts (Concil. tom. vii. p. 63—78. Baron. Annal. Eccleſ. A. D. 656, N° 2. et annos ſubſequent.). Yet the chaſtiſement of their diſobedience, ἐξορια and σωματος αικισμος, had been previouſly announced in the Type of Conſtans (Concil. tom. vii. p. 240.).

their

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their recent defeat, and obliterated the diſgrace of the three chapters. The ſynods of Rome were confirmed by the ſixth general council of Conſtantinople, in the palace and the preſence of a new Conſtantine, a deſcendant of Heraclius. The royal convert converted the Byzantine pontiff and a majority of the biſhops [105]; the diſſenters, with their chief, Macarius of Antioch, were condemned to the ſpiritual and temporal pains of hereſy; the Eaſt condeſcended to accept the leſſons of the Weſt; and the creed was finally ſettled, which teaches the Catholics of every age, that two wills or energies are harmoniſed in the perſon of Chriſt. The majeſty of the pope and the Roman ſynod was repreſented by two prieſts, one deacon, and three biſhops; but theſe obſcure Latins had neither arms to compel, nor treaſures to bribe, nor language to perſuade; and I am ignorant by what arts they could determine the lofty emperor of the Greeks to abjure the catechiſm of his infancy, and to perſecute the religion of his fathers. Perhaps the monks and people of Conſtantinople [106] were favourable to the Lateran creed, which is indeed the leaſt reaſonable of the two: and the ſuſpicion is

VIth general council: IId of Conſtantinople, A.D. 680, Nov. 7—A.D. 681, Sept. 16.

[105] Eutychius (Annal. tom ii. p. 368.) moſt erroneouſly ſuppoſes that the 124 biſhops of the Roman ſynod tranſported themſelves to Conſtantinople; and by adding them to the 168 Greeks, thus compoſes the ſixth council of 292 fathers.

[106] The Monothelite Conſtans was hated by all διὰ τοὺ ταυτὰ (ſays Theophanes, Chron. p. 292.) ἐμισεῖτο σφόδρα παρὰ πάντων. When the Monothelite monk failed in his miracle, the people ſhouted, ὁ λαὸς ἀνεβόησε (Concil. tom. vii. p. 1032.). But this was a natural and tranſient emotion; and I much fear that the latter is an anticipation of orthodoxy in the good people of Conſtantinople.

counte-

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countenanced by the unnatural moderation of the Greek clergy, who appear in this quarrel to be conſcious of their weakneſs. While the ſynod debated, a fanatic propoſed a more ſummary deciſion, by raiſing a dead man to life: the prelates aſſiſted at the trial, but the acknowledged failure may ſerve to indicate, that the paſſions and prejudices of the multitude were not enliſted on the ſide of the Monothelites. In the next generation, when the ſon of Conſtantine was depoſed and ſlain by the diſciple of Macarius, they taſted the feaſt of revenge and dominion: the image or monument of the ſixth council was defaced, and the original acts were committed to the flames. But in the ſecond year, their patron was caſt headlong from the throne, the biſhops of the Eaſt were releaſed from their occaſional conformity, the Roman faith was more firmly replanted by the orthodox ſucceſſors of Bardanes, and the fine problems of the incarnation were forgotten in the more popular and viſible quarrel of the worſhip of images [107].

Union of the Greek and Latin churches.

Before the end of the ſeventh century, the creed of the incarnation, which had been defined at Rome and Conſtantinople, was uniformly preached in the remote iſlands of Britain and Ireland [108]: the ſame ideas

[107] The hiſtory of Monothelitiſm may be found in the Acts of the Synods of Rome (tom. vii. p. 77—395. 601—608.) and Conſtantinople (p. 609—1429.). Baronius extracted ſome original documents from the Vatican library; and his chronology is rectified by the diligence of Pagi. Even Dupin (Bibliotheque Eccleſ. tom. vi. p. 57—71.) and Baſnage (Hiſt. de l'Egliſe, tom. i. p. 541—555.) afford a tolerable abridgment.

[108] In the Lateran ſynod of 679, Wilfrid, an Anglo-Saxon biſhop, ſubſcribed pro omni Aquilonali parte Britanniæ et Hiberniæ, quæ

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ideas were entertained, or rather the ſame words were repeated, by all the Chriſtians whoſe liturgy was performed in the Greek or the Latin tongue. Their numbers, and viſible ſplendour, beſtowed an imperfect claim to the appellation of Catholics: but in the Eaſt, they were marked with the leſs honourable name of *Melchites* or Royaliſts [109]; of men, whoſe faith, inſtead of reſting on the baſis of ſcripture, reaſon, or tradition, had been eſtabliſhed, and was ſtill maintained, by the arbitrary power of a temporal monarch. Their adverſaries might allege the words of the fathers of Conſtantinople, who profeſs themſelves the ſlaves of the king; and

quæ ab Anglorum et Brittonum, necnon Scotorum et Pictorum gentibus colebantur (Eddius, in Vit. St. Wilfrid. c. 31. apud Pagi, Critica, tom. iii. p. 88.). Theodore (magnæ inſulæ Britanniæ archiepiſcopus et philoſophus) was long expected at Rome (Concil. tom. vii. p. 714.); but he contented himſelf with holding (A. D. 680) his provincial ſynod of Hatfield, in which he received the decrees of pope Martin and the firſt Lateran council againſt the Monothelites (Concil. tom. vii. p. 597, &c.). Theodore, a monk of Tarſus in Cilicia, had been named to the primacy of Britain by pope Vitalian (A. D. 668. See Baronius and Pagi), whoſe eſteem for his learning and piety was tainted by ſome diſtruſt of his national character—ne quid contrarium veritati fidei, Græcorum more, in eccleſiam cui præeſſet introduceret. The Cilician was ſent from Rome to Canterbury under the tuition of an African guide (Bedæ Hiſt. Eccleſ. Anglorum, l. iv. c. 1.). He adhered to the Roman doctrine; and the ſame creed of the incarnation has been uniformly tranſmitted from Theodore to the modern primates, whoſe ſound underſtanding is perhaps ſeldom engaged with that abſtruſe myſtery.

[109] This name, unknown till the x^th^ century, appears to be of Syriac origin. It was invented by the Jacobites, and eagerly adopted by the Neſtorians and Mahometans; but it was accepted without ſhame by the Catholics, and is frequently uſed in the Annals of Eutychius (Aſſeman. Bibliot. Orient. tom. ii. p. 507, &c. tom. iii. p. 355. Renaudot, Hiſt. Patriarch. Alexandrin. p. 119.) Ἡμεῖς ὀρθοὶ τῷ Βασιλεῖ, was the acclamation of the fathers of Conſtantinople (Concil. tom. vii. p. 765.).

they

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they might relate, with malicious joy, how the decrees of Chalcedon had been inſpired and reformed by the emperor Marcian and his virgin bride. The prevailing faction will naturally inculcate the duty of ſubmiſſion, nor is it leſs natural that diſſenters ſhould feel and aſſert the principles of freedom. Under the rod of perſecution, the Neſtorians and Monophyſites degenerated into rebels and fugitives; and the moſt ancient and uſeful allies of Rome were taught to conſider the emperor not as the chief, but as the enemy, of the Chriſtians. Language, the leading principle which unites or ſeparates the tribes of mankind, ſoon diſcriminated the ſectaries of the Eaſt, by a peculiar and perpetual badge, which aboliſhed the means of intercourſe and the hope of reconciliation. The long dominion of the Greeks, their colonies, and, above all, their eloquence, had propagated a language, doubtleſs the moſt perfect that has been contrived by the art of man. Yet the body of the people, both in Syria and Egypt, ſtill perſevered in the uſe of their national idioms; with this difference however, that the Coptic was confined to the rude and illiterate peaſants of the Nile, while the Syriac [110], from the mountains of Aſſyria to the Red Sea, was adapted to the higher topics of poetry and argu-

Perpetual ſeparation of the Oriental ſects.

[110] The Syriac, which the natives revere as the primitive language, was divided into three dialects. 1. The *Aramæan*, as it was refined at Edeſſa and the cities of Meſopotamia. 2. The *Paleſtine*, which was uſed in Jeruſalem, Damaſcus, and the reſt of Syria. 3. The *Nabathæan*, the ruſtic idiom of the mountains of Aſſyria and the villages of Irak (Gregor. Abulpharag. Hiſt. Dynaſt. p. 11.). On the Syriac, ſee Ebed-Jeſu (Aſſeman. tom. iii. p. 326, &c.), whoſe prejudice alone could prefer it to the Arabic.

ment.

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ment. Armenia and Abyſſinia were infected by the ſpeech or learning of the Greeks; and their Barbaric tongues, which have been revived in the ſtudies of modern Europe, were unintelligible to the inhabitants of the Roman empire. The Syriac and the Coptic, the Armenian and the Æthiopic, are conſecrated in the ſervice of their reſpective churches; and their theology is enriched by domeſtic verſions [111] both of the ſcriptures and of the moſt popular fathers. After a period of thirteen hundred and ſixty years, the ſpark of controverſy, firſt kindled by a ſermon of Neſtorius, ſtill burns in the boſom of the Eaſt; and the hoſtile communions ſtill maintain the faith and diſcipline of their founders. In the moſt abject ſtate of ignorance, poverty, and ſervitude, the Neſtorians and Monophyſites reject the ſpiritual ſupremacy of Rome, and cheriſh the toleration of their Turkiſh maſters, which allows them to anathematiſe, on one hand, St. Cyril and the ſynod of Epheſus; on the other, pope Leo and the council of Chalcedon. The weight which they caſt into the downfal of the Eaſtern empire demands our notice, and the reader may be amuſed with the various proſpect of, I. The Neſtorians. II. The Jacobites [112]. III. The Maronites. IV. The

[111] I ſhall not enrich my ignorance with the ſpoils of Simon, Walton, Mill, Wetſtein, Aſſemannus, Ludolphus, La Croze, whom I have conſulted with ſome care. It appears, 1. *That* of all the verſions which are celebrated by the fathers, it is doubtful whether any are now extant in their priſtine integrity. 2. *That* the Syriac has the beſt claim; and that the conſent of the Oriental ſects is a proof that is more ancient than their ſchiſm.

[112] On the account of the Monophyſites and Neſtorians, I am deeply indebted to the Bibliotheca Orientalis Clementino-Vaticana of

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IV. The Armenians. V. The Copts; and, VI. The Abyſſinians. To the three former, the Syriac is common; but of the latter, each is diſcriminated by the uſe of a national idiom. Yet the modern natives of Armenia and Abyſſinia would be incapable of converſing with their anceſtors; and the Chriſtians of Egypt and Syria, who reject the religion, have adopted the language, of the Arabians. The lapſe of time has ſeconded the ſacerdotal arts; and in the Eaſt, as well as in the Weſt, the Deity is addreſſed in an obſolete tongue, unknown to the majority of the congregation.

I. THE NESTORIANS,

I. Both in his native and his epiſcopal province, the hereſy of the unfortunate Neſtorius was ſpeedily obliterated. The Oriental biſhops, who at Epheſus had reſiſted to his face the arrogance of Cyril, were mollified by his tardy conceſſions. The ſame prelates, or their ſucceſſors, ſubſcribed, not without a murmur, the decrees of Chalcedon; the power of the Monophyſites reconciled them with the Catholics in the conformity of paſſion, of intereſt, and inſenſibly of belief; and their laſt reluctant ſigh was breathed in the defence of the three chapters. Their diſſenting brethren, leſs moderate, or more ſincere, were cruſhed by the penal laws; and as early as the reign of Juſtinian, it became difficult to find a church of Neſtorians

Joſeph Simon Aſſemannus. That learned Maronite was diſpatched in the year 1715 by pope Clement XI. to viſit the monaſteries of Egypt and Syria, in ſearch of MSS. His four folio volumes publiſhed at Rome 1719—1728, contain a part only, though perhaps the moſt valuable, of his extenſive project. As a native and as a ſcholar, he poſſeſſed the Syriac literature; and, though a dependent of Rome, he wiſhes to be moderate and candid.

within

within the limits of the Roman empire. Beyond thoſe limits they had diſcovered a new world, in which they might hope for liberty and aſpire to conqueſt. In Perſia, notwithſtanding the reſiſtance of the Magi, Chriſtianity had ſtruck a deep root, and the nations of the Eaſt repoſed under its ſalutary ſhade. The *catholic*, or primate, reſided in the capital: in *his* ſynods, and in *their* dioceſes, his metropolitans, biſhops, and clergy, repreſented the pomp and order of a regular hierarchy: they rejoiced in the increaſe of proſelytes, who were converted from the Zendaveſta to the Goſpel, from the ſecular to the monaſtic life; and their zeal was ſtimulated by the preſence of an artful and formidable enemy. The Perſian church had been founded by the miſſionaries of Syria; and their language, diſcipline, and doctrine, were cloſely interwoven with its original frame. The *catholics* were elected and ordained by their own ſuffragans; but their filial dependence on the patriarchs of Antioch is atteſted by the canons of the Oriental church [113]. In the Perſian ſchool of Edeſ-

[113] See the Arabic canons of Nice in the tranſlation of Abraham Ecchelenſis, N° 37, 38, 39, 40. Concil. tom. ii. p. 335, 336. edit. Venet. Theſe vulgar titles, *Nicene* and *Arabic*, are both apocryphal. The council of Nice enacted no more than twenty canons (Theodoret, Hiſt. Eccleſ. l. i. c. 8.); and the remainder, ſeventy or eighty, were collected from the ſynods of the Greek church. The Syriac edition of Maruthas is no longer extant (Aſſeman. Bibliot. Oriental. tom. i. p. 195. tom. iii. p. 74.), and the Arabic verſion is marked with many recent interpolations. Yet this code contains many curious relics of eccleſiaſtical diſcipline; and ſince it is equally revered by all the eaſtern communions, it was probably finiſhed before the ſchiſm of the Neſtorians and Jacobites (Fabric. Bibliot. Græc. tom. xi. p. 363—367.).

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ſa [114], the riſing generations of the faithful imbibed their theological idiom; they ſtudied in the Syriac verſion the ten thouſand volumes of Theodore of Mopſueſtia, and they revered the apoſtolic faith and holy martyrdom of his diſciple Neſtorius, whoſe perſon and language were equally unknown to the nations beyond the Tigris. The firſt indelible leſſon of Ibas biſhop of Edeſſa, taught them to execrate the *Egyptians*, who, in the ſynod of Epheſus, had impiouſly confounded the two natures of Chriſt. The flight of the maſters and ſcholars, who were twice expelled from the Athens of Syria, diſperſed a crowd of miſſionaries inflamed by the double zeal of religion and revenge. And the rigid unity of the Monophyſites, who, under the reigns of Zeno and Anaſtaſius, had invaded the thrones of the Eaſt, provoked their antagoniſts, in a land of freedom, to avow a moral, rather than a phyſical, union of the two perſons of Chriſt. Since the firſt preaching of the goſpel, the Saſſanian kings beheld with an eye of ſuſpicion, a race of aliens and apoſtates, who had embraced the religion, and who might favour the cauſe, of the hereditary foes of their country. The royal edicts had often prohibited their dangerous correſpondence with the Syrian clergy; the progreſs of the ſchiſm was grateful to the jealous pride of Perozes, and he liſtened to the eloquence of an artful prelate, who painted Neſto-

[114] Theodore the reader (l. ii. c. 5. 49. ad calcem Hiſt. Eccleſ.) has noticed this Perſian ſchool of Edeſſa. Its ancient ſplendour, and the two æras of its downfal (A. D. 431 and 489), are clearly diſcuſſed by Aſſemanni (Bibliot. Orient. tom. ii. p. 402. iii. p. 376. 378. iv. p. 70. 924.).

rius

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rius as the friend of Perſia, and urged him to ſecure the fidelity of his Chriſtian ſubjects, by granting a juſt preference to the victims and enemies of the Roman tyrant. The Neſtorians compoſed a large majority of the clergy and people: they were encouraged by the ſmile, and armed with the ſword, of deſpotiſm; yet many of their weaker brethren were ſtartled at the thought of breaking looſe from the communion of the Chriſtian world, and the blood of ſeven thouſand ſeven hundred Monophyſites or Catholics, confirmed the uniformity of faith and diſcipline in the churches of Perſia [115]. Their eccleſiaſtical inſtitutions are diſtinguiſhed by a liberal principle of reaſon, or at leaſt of policy: the auſterity of the cloyſter was relaxed and gradually forgotten; houſes of charity were endowed for the education of orphans and foundlings; the law of celibacy, ſo forcibly recommended to the Greeks and Latins, was diſregarded by the Perſian clergy; and the number of the elect was multiplied by the public and reiterated nuptials of the prieſts, the biſhops, and even the patriarch himſelf. To this ſtandard of natural and religious freedom, myriads of fugitives reſorted from all the provinces of the Eaſtern empire: the narrow bigotry of Juſtinian was puniſhed by the emigration of his moſt induſtrious ſubjects; they tranſported into Perſia the

ſole maſters of Perſia, A. D. 500, &c.

[115] A diſſertation on the ſtate of the Neſtorians has ſwelled in the hands of Aſſemanni to a folio volume of 950 pages, and his learned reſearches are digeſted in the moſt lucid order. Beſides this ſixth volume of the *Bibliotheca Orientalis*, the extracts in the three preceding tomes (tom. i. p. 203. ii. p. 321—463. iii. 64—70. 378—395, &c. 403—408. 580—589.) may be uſefully conſulted.

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arts both of peace and war: and thoſe who deſerved the favour, were promoted in the ſervice, of a diſcerning monarch. The arms of Nuſhirvan and his fiercer grandſon, were aſſiſted with advice, and money, and troops, by the deſperate ſectaries who ſtill lurked in their native cities of the Eaſt; their zeal was rewarded with the gift of the Catholic churches: but when thoſe cities and churches were recovered by Heraclius, their open profeſſion of treaſon and hereſy compelled them to ſeek a refuge in the realm of their foreign ally. But the ſeeming tranquillity of the Neſtorians was often endangered, and ſometimes overthrown. They were involved in the common evils of Oriental deſpotiſm: their enmity to Rome could not always atone for their attachment to the goſpel: and a colony of three hundred thouſand Jacobites, the captives of Apamea and Antioch, was permitted to erect an hoſtile altar in the face of the *catholic*, and in the ſunſhine of the court. In his laſt treaty, Juſtinian introduced ſome conditions which tended to enlarge and fortify the toleration of Chriſtianity in Perſia. The emperor, ignorant of the rights of conſcience, was incapable of pity or eſteem for the heretics who denied the authority of the holy ſynods: but he flattered himſelf that they would gradually perceive the temporal benefits of union with the empire and the church of Rome; and if he failed in exciting their gratitude, he might hope to provoke the jealouſy of their ſovereign. In a later age, the Lutherans have been burnt at Paris and protected in Germany, by the ſuperſtition and policy of the moſt Chriſtian king.

The

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Their miſſions in Tartary, India, China, &c. A. D. 500—1200.

The deſire of gaining ſouls for God, and ſubjects for the church, has excited in every age the diligence of the Chriſtian prieſts. From the conqueſt of Perſia they carried their ſpiritual arms to the north, the eaſt, and the ſouth; and the ſimplicity of the goſpel was faſhioned and painted with the colours of the Syriac theology. In the ſixth century, according to the report of a Neſtorian traveller [116], Chriſtianity was ſucceſsfully preached to the Bactrians, the Huns, the Perſians, the Indians, the Perſarmenians, the Medes, and the Elamites: the Barbaric churches, from the gulf of Perſia to the Caſpian ſea, were almoſt infinite; and their recent faith was conſpicuous in the number and ſanctity of their monks and martyrs. The pepper coaſt of Malabar, and the iſles of the ocean, Socotora and Ceylan, were peopled with an increaſing multitude of Chriſtians, and the biſhops and clergy of thoſe ſequeſtered regions derived their ordination

[116] See the Topographia Chriſtiana of Coſmas, ſurnamed Indicopleuſtes, or the Indian navigator, l. iii. p. 178, 179. l. xi. p. 337. The entire work, of which ſome curious extracts may be found in Photius (cod. xxxvi. p. 9, 10. edit. Hoeſchel), Thevenot (in the 1st Part of his Relations des Voyages, &c.), and Fabricius (Bibliot. Græc. l. iii. c. 25. tom. ii. p. 603—617.), has been publiſhed by father Montfaucon at Paris 1707, in the Nova Collectio Patrum (tom. ii. p. 113—346.). It was the deſign of the author to confute the impious hereſy of thoſe who maintain that the earth is a globe, and not a flat oblong table, as it is repreſented in the Scriptures (l. ii. p. 138.). But the nonſenſe of the monk is mingled with the practical knowledge of the traveller, who performed his voyage A. D. 522, and publiſhed his book at Alexandria A. D. 547 (l. ii. p. 140, 141. Montfaucon, Præfat. c. 2.). The Neſtorianiſm of Coſmas, unknown to his learned editor, was detected by La Croze (Chriſtianiſme des Indes, tom. i. p. 40—55.), and is confirmed by Aſſemanni (Bibliot. Orient. tom. iv. p. 605, 606.).

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from the catholic of Babylon. In a ſubſequent age, the zeal of the Neſtorians overleaped the limits which had confined the ambition and curioſity both of the Greeks and Perſians. The miſſionaries of Balch and Samarcand purſued without fear the footſteps of the roving Tartar, and inſinuated themſelves into the camps of the vallies of Imaus and the banks of the Selinga. They expoſed a metaphyſical creed to thoſe illiterate ſhepherds: to thoſe ſanguinary warriors, they recommended humanity and repoſe. Yet a khan, whoſe power they vainly magnified, is ſaid to have received at their hands the rites of baptiſm, and even of ordination; and the fame of *Preſter* or *Preſbyter* John [117] has long amuſed the credulity of Europe. The royal convert was indulged in the uſe of a portable altar; but he diſpatched an embaſſy to the patriarch, to inquire how, in the ſeaſon of Lent, he ſhould abſtain from animal food, and how he might celebrate the Euchariſt in a deſert that produced neither corn nor wine. In their progreſs by ſea and land, the Neſtorians entered China by the port of Canton and the northern reſidence of Sigan. Unlike the ſenators of Rome, who aſſumed with a ſmile the characters of prieſts and augurs, the man-

[117] In its long progreſs to Moſul, Jeruſalem, Rome, &c. the ſtory of Preſter John evaporated in a monſtrous fable, of which ſome features have been borrowed from the Lama of Thibet (Hiſt. Genealogique des Tatares, P. ii. p. 42. Hiſt. de Gengiſcan, p. 31, &c.), and were ignorantly transferred by the Portugueſe to the emperor of Abyſſinia (Ludolph. Hiſt. Æthiop. Comment. l. ii. c. 1.). Yet it is probable that in the xith and xiith centuries, Neſtorian Chriſtianity was profeſſed in the herd of the Keraites (d'Herbelot, p. 256. 919. 959. Aſſemanni, tom. iv. p. 468—504.).

darins

darins, who affect in public the reaſon of philoſophers, are devoted in private to every mode of popular ſuperſtition. They cheriſhed and they confounded the gods of Paleſtine and of India; but the propagation of Chriſtianity awakened the jealouſy of the ſtate, and after a ſhort viciſſitude of favour and perſecution, the foreign ſect expired in ignorance and oblivion [118]. Under the reign of the caliphs, the Neſtorian church was diffuſed from China to Jeruſalem and Cyprus; and their numbers, with thoſe of the Jacobites, were computed to ſurpaſs the Greek and Latin communions [119]. Twenty-five metropolitans or archbiſhops compoſed their hierarchy, but ſeveral of theſe were diſpenſed, by the diſtance and danger of the way, from the duty of perſonal attendance, on the eaſy condition that every ſix years they ſhould teſtify their faith and obedience to the *catholic* or patriarch of Babylon, a vague appellation, which has been ſucceſſively applied to the royal ſeats of Seleucia, Cteſiphon, and Bagdad. Theſe remote branches are long ſince withered, and the old patriarchal

[118] The Chriſtianity of China, between the ſeventh and the thirteenth century, is invincibly proved by the conſent of Chineſe, Arabian, Syriac, and Latin evidence (Aſſemanni, Biblioth. Orient. tom. iv. p. 502—552. Mem. de l'Academie des Inſcript. tom. xxx. p. 892—819.). The inſcription of Siganfu, which deſcribes the fortunes of the Neſtorian church from the firſt miſſion A. D. 636, to the current year 781, is accuſed of forgery by La Croze, Voltaire, &c. who become the dupes of their own cunning, while they are afraid of a Jeſuitical fraud.

[119] Jacobitæ et Neſtorianæ plures quam Græci et Latini. Jacob a Vitriaco, Hiſt. Hieroſol. l. ii. c. 76. p. 1093. in the Geſta Dei per Francos. The numbers are given by Thomaſſin, Diſcipline de l'Egliſe, tom. i. p. 172.

trunk

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trunk [120] is now divided by the *Elijahs* of Moſul, the repreſentatives, almoſt in lineal deſcent, of the genuine and primitive ſucceſſion, the *Joſephs* of Amida, who are reconciled to the church of Rome [121], and the *Simeons* of Van or Ormia, whoſe revolt, at the head of forty thouſand families, was promoted in the ſixteenth century by the Sophiſts of Perſia. The number of three hundred thouſand is allowed for the whole body of the Neſtorians, who, under the name of Chaldæans or Aſſyrians, are confounded with the moſt learned or the moſt powerful nation of Eaſtern antiquity.

The Chriſtians of St. Thomas in India, A.D. 883.

According to the legend of antiquity, the goſpel was preached in India by St. Thomas [122]. At the end of the ninth century, his ſhrine, perhaps in the neighbourhood of Madras, was devoutly viſited by the ambaſſadors of Alfred, and their return with a cargo of pearls and ſpices rewarded the zeal of

[120] The diviſion of the patriarchate may be traced in the Bibliotheca Orient. of Aſſemanni, tom. i. p. 523—549. tom. ii. p. 457, &c. tom. iii. p. 663. p. 621—623. tom. iv. p. 164—169. p. 423. p. 622—629, &c.

[121] The pompous language of Rome on the ſubmiſſion of a Neſtorian patriarch, is elegantly repreſented in the viiith book of Fra-Paola, Babylon, Niniveh, Arbela, and the trophies of Alexander, Tauris, and Ecbatana, the Tigris and Indus.

[122] The Indian miſſionary St. Thomas, an apoſtle, a Manichæan, or an Armenian merchant (La Croze, Chriſtianiſme des Indes, tom. i. p. 57—70.), was famous, however, as early as the time of Jerom (ad Marcellam epiſt. 148.). Marco Polo was informed, on the ſpot that he ſuffered martyrdom in the city of Maabar, or Meliapour, a league only from Madras (d'Anville, Ecclairciſſemens ſur l'Inde, p. 125.), where the Portugueſe founded an epiſcopal church under the name of St. Thomé, and where the ſaint performed an annual miracle, till he was ſilenced by the profane neighbourhood of the Engliſh (La Croze, tom. ii. p. 7—16.).

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the Engliſh monarch, who entertained the largeſt projects of trade and diſcovery [123]. When the Portugueſe firſt opened the navigation of India, the Chriſtians of St. Thomas had been ſeated for ages on the coaſt of Malabar, and the difference of their character and colour atteſted the mixture of a foreign race. In arms, in arts, and poſſibly in virtue, they excelled the natives of Hindoſtan: the huſbandmen cultivated the palm-tree, the merchants were enriched by the pepper trade, the ſoldiers preceded the *nairs* or nobles of Malabar, and their hereditary privileges were reſpected by the gratitude or the fear of the king of Cochin and the Zamorin himſelf. They acknowledged a Gentoo ſovereign, but they were governed, even in temporal concerns, by the biſhop of Angamala. He ſtill aſſerted his ancient title of metropolitan of India, but his real juriſdiction was exerciſed in fourteen hundred churches, and he was entruſted with the care of two hundred thouſand ſouls. Their religion would have rendered them the firmeſt and moſt cordial allies of the Portugueſe, but the inquiſitors ſoon diſcerned in the Chriſtians of St. Thomas the unpardonable guilt of hereſy and

A. D. 1500, &c.

[123] Neither the author of the Saxon Chronicle (A. D. 883) nor William of Malmſbury (de Geſtis Regum Angliæ, l. ii. c. 4. p. 44.) were capable in the twelfth century, of inventing this extraordinary fact; they are incapable of explaining the motives and meaſures of Alfred; and their haſty notice ſerves only to provoke our curioſity. William of Malmſbury feels the difficulties of the enterpriſe, quod quivis in hoc ſæculo miretur; and I almoſt ſuſpect that the Engliſh ambaſſadors collected their cargo and legend in Egypt. The royal author has not enriched his Oroſius (ſee Barrington's Miſcellanies) with an Indian, as well as a Scandinavian voyage.

ſchiſm.

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ſchiſm. Inſtead of owning themſelves the ſubjects of the Roman pontiff, the ſpiritual and temporal monarch of the globe, they adhered, like their anceſtors, to the communion of the Neſtorian patriarch; and the biſhops whom he ordained at Moſul, traverſed the dangers of the ſea and land to reach their dioceſe on the coaſt of Malabar. In their Syriac liturgy, the names of Theodore and Neſtorius were piouſly commemorated; they united their adoration of the two perſons of Chriſt; the title of Mother of God was offenſive to their ear, and they meaſured with ſcrupulous avarice the honours of the Virgin Mary, whom the ſuperſtition of the Latins had *almoſt* exalted to the rank of a Goddeſs. When her image was firſt preſented to the diſciples of St. Thomas, they indignantly exclaimed, "We are Chriſtians, not idolaters!" and their ſimple devotion was content with the veneration of the croſs. Their ſeparation from the weſtern world had left them in ignorance of the improvements or corruptions of a thouſand years; and their conformity with the faith and practice of the fifth century, would equally diſappoint the prejudices of a papiſt or a proteſtant. It was the firſt care of the miniſters of Rome to intercept all correſpondence with the Neſtorian patriarch, and ſeveral of his biſhops expired in the priſons of the holy office. The flock, without a ſhepherd, was aſſaulted by the power of the Portugueſe, the arts of the Jeſuits, and the zeal of Alexis de Menezes archbiſhop of Goa, in his perſonal viſitation of the coaſt of Malabar. The ſynod of Diamper, at which he preſided, conſummated the pious work of the reunion, and rigorouſly impoſed

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impoſed the doctrine and diſcipline of the Roman church, without forgetting auricular confeſſion, the ſtrongeſt engine of eccleſiaſtical torture. The memory of Theodore and Neſtorius was condemned, and Malabar was reduced under the dominion of the pope, of the primate, and of the Jeſuits who invaded the ſee of Angamala or Cranganor. Sixty years of ſervitude and hypocriſy were patiently endured; but as ſoon as the Portugueſe empire was ſhaken by the courage and induſtry of the Dutch, the Neſtorians aſſerted, with vigour and effect, the religion of their fathers. The Jeſuits were incapable of defending the power which they had abuſed: the arms of forty thouſand Chriſtians were pointed againſt their falling tyrants; and the Indian archdeacon aſſumed the character of biſhop, till a freſh ſupply of epiſcopal gifts and Syriac miſſionaries could be obtained from the patriarch of Babylon. Since the expulſion of the Portugueſe, the Neſtorian creed is freely profeſſed on the coaſt of Malabar. The trading companies of Holland and England are the friends of toleration; but if oppreſſion be leſs mortifying than contempt, the Chriſtians of St. Thomas have reaſon to complain of the cold and ſilent indifference of their brethren of Europe [124].

A.D. 1599—1663.

[124] Concerning the Chriſtians of St. Thomas, ſee Aſſemannus, Bibliot. Orient. tom. iv. p. 391—407. 435—451. Geddes's Church Hiſtory of Malabar; and, above all, La Croze, Hiſtoire du Chriſtianiſme des Indes, in two vols. 12mo, La Haye, 1758, a learned and agreeable work. They have drawn from the ſame ſource, the Portugueſe and Italian narratives; and the prejudices of the Jeſuits are ſufficiently corrected by thoſe of the proteſtants.

II. The

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II. THE JACOBITES.

II. The hiſtory of the Monophyſites is leſs copious and intereſting than that of the Neſtorians. Under the reigns of Zeno and Anaſtaſius, their artful leaders ſurpriſed the ear of the prince, uſurped the thrones of the Eaſt, and cruſhed on its native ſoil the ſchool of the Syrians. The rule of the Monophyſite faith was defined with exquiſite diſcretion by Severus patriarch of Antioch; he condemned, in the ſtyle of the Henoticon, the adverſe hereſies of Neſtorius and Eutyches, maintained againſt the latter the reality of the body of Chriſt, and conſtrained the Greeks to allow that he was a liar who ſpoke truth [125]. But the approximation of ideas could not abate the vehemence of paſſion; each party was the more aſtoniſhed that their blind antagoniſt could diſpute on ſo trifling a difference; the tyrant of Syria enforced the belief of his creed, and his reign was polluted with the blood of three hundred and fifty monks, who were ſlain, not perhaps without provocation or reſiſtance, under the walls of Apamea [126]. The ſucceſſor of Anaſtaſius replanted the

A.D. 518.

[125] Οὐκ ἔστιν ψευδαλήθης is the expreſſion of Theodore, in his treatiſe of the Incarnation, p. 245. 247. as he is quoted by La Croze (Hiſt. du Chriſtianiſme d'Ethiope et d'Armenie, p. 35.), who exclaims, perhaps too haſtily, "Quel pitoyable raiſonnement!" Renaudot has touched (Hiſt. Patriarch. Alex. p. 127—138.) the Oriental accounts of Severus; and his authentic creed may be found in the epiſtle of John the Jacobite patriarch of Antioch, in the xth century, to his brother Mennas of Alexandria (Aſſeman. Bibliot. Orient. tom. ii. p. 132—141.).

[126] Epiſt. Archimandritarum et Monachorum Syriæ Secundæ ad Paulum Hormiſdam, Concil. tom. v. p. 598—602. The courage of St. Sabas, ut leo animoſus, will juſtify the ſuſpicion that the arms of theſe monks were not always ſpiritual or defenſive (Baronius, A. D. 513, N° 7, &c.).

orthodox

orthodox ſtandard in the Eaſt: Severus fled into Egypt; and his friend, the eloquent Xenaias [127], who had eſcaped from the Neſtorians of Perſia, was ſuffocated in his exile by the Melchites of Paphlagonia. Fifty-four biſhops were ſwept from their thrones, eight hundred eccleſiaſtics were caſt into priſon [128], and notwithſtanding the ambiguous favour of Theodora, the Oriental flocks, deprived of their ſhepherds, muſt inſenſibly have been either famiſhed or poiſoned. In this ſpiritual diſtreſs, the expiring faction was revived, and united, and perpetuated, by the labours of a monk; and the name of James Baradæus [129] has been preſerved in the appellation of *Jacobites*, a familiar ſound which may ſtartle the ear of an Engliſh reader. From the holy confeſſors in their priſon of Conſtantinople, he received the powers of biſhop of Edeſſa and

127 Aſſemanni (Bibliot. Orient. tom. ii. p. 10—46.) and La Croze (Chriſtianiſme d'Ethiopie, p. 36—40.) will ſupply the hiſtory of Xenaias, or Philoxenus, biſhop of Mabug, or Hierapolis, in Syria. He was a perfect maſter of the Syriac language, and the author or editor of a verſion of the New Teſtament.

128 The names and titles of fifty-four biſhops who were exiled by Juſtin, are preſerved in the Chronicle of Dionyſius (apud Aſſeman. tom. ii. p. 54.). Severus was perſonally ſummoned to Conſtantinople—for his trial, ſays Liberatus (Brev. c. 19.)—that his tongue might be cut out, ſays Evagrius (l. iv. c. iv.). The prudent patriarch did not ſtay to examine the difference. This eccleſiaſtical revolution is fixed by Pagi to the month of September of the year 518 (Critica, tom. ii. p. 506.).

129 The obſcure hiſtory of James, or Jacobus Baradæus, or Zanzalus, may be gathered from Eutychius (Annal. tom. ii. p. 144. 147.), Renaudot (Hiſt. Patriarch. Alex. p. 133.), and Aſſemannus (Bibliot. Orient. tom. i. p. 424. tom. ii. p. 62—69. 324—332. p. 414. tom. iii. p. 385—388.). He ſeems to be unknown to the Greeks. The Jacobites themſelves had rather deduce their name and pedigree from St. James the apoſtle.

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apoſtle of the Eaſt, and the ordination of four-ſcore thouſand biſhops, prieſts, and deacons, is derived from the ſame inexhauſtible ſource. The ſpeed of the zealous miſſionary was promoted by the fleeteſt dromedaries of a devout chief of the Arabs; the doctrine and diſcipline of the Jacobites were ſecretly eſtabliſhed in the dominions of Juſtinian; and each Jacobite was compelled to violate the laws and to hate the Roman legiſlator. The ſucceſſors of Severus, while they lurked in convents or villages, while they ſheltered their proſcribed heads in the caverns of hermits, or the tents of the Saracens, ſtill aſſerted, as they now aſſert, their indefeaſable right to the title, the rank, and the prerogatives of patriarch of Antioch: under the milder yoke of the infidels, they reſide about a league from Merdin, in the pleaſant monaſtery of Zapharan, which they have embelliſhed with cells, aqueducts, and plantations. The ſecondary, though honourable place, is filled by the *maphrian*, who, in his ſtation at Moſul itſelf, defies the Neſtorian *catholic* with whom he conteſts the ſupremacy of the Eaſt. Under the patriarch and the maphrian, one hundred and fifty archbiſhops and biſhops have been counted in the different ages of the Jacobite church; but the order of the hierarchy is relaxed or diſſolved, and the greater part of their dioceſes is confined to the neighbourhood of the Euphrates and the Tigris. The cities of Aleppo and Amida, which are often viſited by the patriarch, contain ſome wealthy merchants and induſtrious mechanics, but the multitude

multitude derive their ſcanty ſuſtenance from their daily labour: and poverty, as well as ſuperſtition, may impoſe their exceſſive faſts; five annual lents, during which, both the clergy and laity abſtain not only from fleſh or eggs, but even from the taſte of wine, of oil, and of fiſh. Their preſent numbers are eſteemed from fifty to fourſcore thouſand ſouls, the remnant of a populous church, which has gradually decreaſed under the oppreſſion of twelve centuries. Yet in that long period, ſome ſtrangers of merit have been converted to the Monophyſite faith, and a Jew was the father of Abulpharagius [130] primate of the Eaſt, ſo truly eminent both in his life and death. In his life, he was an elegant writer of the Syriac and Arabic tongues, a poet, phyſician, and hiſtorian, a ſubtle philoſopher, and a moderate divine. In his death, his funeral was attended by his rival the Neſtorian patriarch, with a train of Greeks and Armenians, who forgot their diſputes, and mingled their tears over the grave of an enemy. The ſect which was honoured by the virtues of Abulpharagius appears, however, to ſink below the level of their Neſtorian brethren. The ſuperſtition of the Jacobites is more abject, their faſts more rigid [131], their inteſtine

[130] The account of his perſon and writings is perhaps the moſt curious article in the Bibliotheca of Aſſemannus (tom. ii. p. 244—321. under the name of *Gregorius Bar-Hebræus*). La Croze (Chriſtianiſme d'Ethiopie, p. 53—63.) ridicules the prejudice of the Spaniards againſt the Jewiſh blood which ſecretly defiles their church and ſtate.

[131] This *exceſſive* abſtinence is cenſured by La Croze (p. 352.), and even by the Syrian Aſſemannus (tom. i. p. 226. tom. ii. p. 304, 305.).

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diviſions are more numerous, and their doctors (as far as I can meaſure the degrees of nonſenſe) are more remote from the precincts of reaſon. Something may poſſibly be allowed for the rigour of the Monophyſite theology; much more for the ſuperior influence of the monaſtic order. In Syria, in Egypt, in Æthiopia, the Jacobite monks have ever been diſtinguiſhed by the auſterity of their penance and the abſurdity of their legends. Alive or dead they are worſhipped as the favourites of the Deity; the croſier of biſhop and patriarch is reſerved for their venerable hands; and they aſſume the government of men, while they are yet reeking with the habits and prejudices of the cloyſter [132].

III. THE MARONITES.

III. In the ſtyle of the Oriental Chriſtians, the Monothelites of every age are deſcribed under the appellation of *Maronites* [133], a name which has been inſenſibly transferred from an hermit to a monaſtery, from a monaſtery to a nation. Maron, a ſaint or ſavage of the fifth century, diſplayed his religious madneſs in Syria; the rival cities of Apamea and Emeſa diſputed his relics, a ſtately church

[132] The ſtate of the Monophyſites is excellently illuſtrated in a diſſertation at the beginning of the iid volume of Aſſemannus, which contains 142 pages. The Syriac Chronicle of Gregory Bar-Hebræus, or Abulpharagius (Bibliot. Orient. tom. ii. p. 321—463.), purſues the double ſeries of the Neſtorian *catholics* and the *maphrians* of the Jacobites.

[133] The ſynonymous uſe of the two words may be proved from Eutychius (Annal. tom. ii. p. 191. 267. 332.); and many ſimilar paſſages which may be found in the methodical table of Pocock. He was not actuated by any prejudice againſt the Maronites of the xth century; and we may believe a Melchite, whoſe teſtimony is confirmed by the Jacobites and Latins.

was

was erected on his tomb, and ſix hundred of his diſciples united their ſolitary cells on the banks of the Orontes. In the controverſies of the incarnation, they nicely threaded the orthodox line between the ſects of Neſtorius and Eutyches; but the unfortunate queſtion of *one will* or operation in the two natures of Chriſt, was generated by their curious leiſure. Their proſelyte, the emperor Heraclius, was rejected as a Maronite from the walls of Emeſa; he found a refuge in the monaſtery of his brethren; and their theological leſſons were repaid with the gift of a ſpacious and wealthy domain. The name and doctrine of this venerable ſchool were propagated among the Greeks and Syrians, and their zeal is expreſſed by Macarius patriarch of Antioch, who declared before the ſynod of Conſtantinople, that ſooner than ſubſcribe the *two wills* of Chriſt, he would ſubmit to be hewn piece-meal and caſt into the ſea [134]. A ſimilar or a leſs cruel mode of perſecution ſoon converted the unreſiſting ſubjects of the plain, while the glorious title of *Mardaites* [135], or rebels, was bravely maintained by the hardy natives of mount Libanus. John Maron,

[134] Concil. tom. vii. p. 780. The Monothelite cauſe was ſupported with firmneſs and ſubtlety by Conſtantine, a *Syrian* prieſt of Apamea (p. 1040, &c.).

[135] Theophanes (Chron. p. 295, 296. 300. 302. 306.) and Cedrenus (p. 437. 440.) relate the exploits of the Mardaites: the name (*Mard*, in Syriac *rebellavit*) is explained by La Roque (Voyage de la Syrie, tom. ii. p. 53.); the dates are fixed by Pagi (A. D. 676, N° 4—14. A. D. 685, N° 3, 4.); and even the obſcure ſtory of the patriarch John Maron (Aſſeman. Bibliot. Orient. tom. i. p. 496—520.) illuſtrates, from the year 686 to 707, the troubles of mount Libanus.

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one of the moſt learned and popular of the monks, aſſumed the character of patriarch of Antioch; his nephew Abraham, at the head of the Maronites, defended their civil and religious freedom againſt the tyrants of the Eaſt. The ſon of the orthodox Conſtantine purſued, with pious hatred, a people of ſoldiers, who might have ſtood the bulwark of his empire againſt the common foes of Chriſt and of Rome. An army of Greeks invaded Syria; the monaſtery of St. Maron was deſtroyed with fire; the braveſt chieftains were betrayed and murdered, and twelve thouſand of their followers were tranſplanted to the diſtant frontiers of Armenia and Thrace. Yet the humble nation of the Maronites has ſurvived the empire of Conſtantinople, and they ſtill enjoy, under their Turkiſh maſters, a free religion and a mitigated ſervitude. Their domeſtic governors are choſen among the ancient nobility; the patriarch in his monaſtery of Canobin, ſtill fancies himſelf on the throne of Antioch; nine biſhops compoſe his ſynod, and one hundred and fifty prieſts, who retain the liberty of marriage, are entruſted with the care of one hundred thouſand ſouls. Their country extends from the ridge of mount Libanus to the ſhores of Tripoli; and the gradual deſcent affords, in a narrow ſpace, each variety of ſoil and climate, from the Holy Cedars, erect under the weight of ſnow [136], to the vine, the mulberry,

136 In the laſt century twenty large cedars ſtill remained (Voyage de la Roque, tom. i. p. 68—76.); at preſent they are reduced to four or five (Volney, tom. i. p. 264.). Theſe trees, ſo famous in ſcripture, were guarded by excommunication: the wood was ſparingly

mulberry, and the olive trees of the fruitful valley. In the twelfth century, the Maronites, abjuring the Monothelite error, were reconciled to the Latin churches of Antioch and Rome [137], and the ſame alliance has been frequently renewed by the ambition of the popes and the diſtreſs of the Syrians. But it may reaſonably be queſtioned, whether their union has ever been perfect or ſincere; and the learned Maronites of the college of Rome have vainly laboured to abſolve their anceſtors from the guilt of hereſy and ſchiſm [138].

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IV. Since the age of Conſtantine, the ARMENIANS [139] had ſignaliſed their attachment to the religion

IV. THE ARMENIANS.

ingly borrowed for ſmall croſſes, &c.; an annual maſs was chaunted under their ſhade; and they were endowed by the Syrians with a ſenſitive power of erecting their branches to repel the ſnow, to which mount Libanus is leſs faithful than it is painted by Tacitus: inter ardores opacum fidumque nivibus—a daring metaphor (Hiſt. v. 6.).

137 The evidence of William of Tyre (Hiſt. in Geſtis Dei per Francos, l. xxii. c. 8. p. 1022.) is copied or confirmed by Jacques de Vitra (Hiſt. Hieroſolym. l. ii. c. 77. p. 1093, 1094.). But this unnatural league expired with the power of the Franks; and Abulpharagius (who died in 1286) conſiders the Maronites as a ſect of Monothelites (Bibliot. Orient. tom. ii. p. 292.).

138 I find a deſcription and hiſtory of the Maronites in the Voyage de la Syrie et du Mont Liban par La Roque (2 vols. in 12mo, Amſterdam, 1723; particularly tom. i. p. 42—47. p. 174—184. tom. ii. p. 10—120.). In the ancient part he copies the prejudices of Nairon and the other Maronites of Rome, which Aſſemannus is afraid to renounce, and aſhamed to ſupport. Jablonſki (Inſtitut. Hiſt. Chriſt. tom. iii. p. 186.), Niebuhr (Voyage de l'Arabie, &c. tom. ii. p. 346. 370—381.), and, above all, the judicious Volney (Voyage en Egypte et en Syrie, tom. ii. p. 8—31. Paris, 1787), may be conſulted.

139 The religion of the Armenians is briefly deſcribed by La Croze (Hiſt. du Chriſt. de l'Ethiope & de l'Armenie, p. 269—402.). He refers to the great Armenian Hiſtory of Galanus (3 vols. in fol.

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gion and empire of the Chriſtians. The diſorders of their country, and their ignorance of the Greek tongue, prevented their clergy from aſſiſting at the ſynod of Chalcedon, and they floated eighty-four years [140] in a ſtate of indifference or ſuſpenſe till their vacant faith was finally occupied by the miſſionaries of Julian of Halicarnaſſus [141], who in Egypt, their common exile, had been vanquiſhed by the arguments or the influence of his rival Severus, the Monophyſite patriarch of Antioch. The Armenians alone are the pure diſciples of Eutyches, an unfortunate parent, who has been renounced by the greater part of his ſpiritual progeny. They alone perſevere in the opinion, that the manhood of Chriſt was created, or exiſted without creation, of a divine and incorruptible ſubſtance. Their adverſaries reproach them with the adoration of a phantom; and they retort the accuſation, by deriding or execrating the blaſphemy of the Jacobites, who impute to the Godhead the vile infirmities of the fleſh, even the natural effects of nutrition and digeſtion. The religion of Armenia could not de-

Rome, 1650—1661), and commends the ſtate of Armenia in the iiid volume of the Nouveaux Memoires des Miſſions du Levant. The work of a Jeſuit muſt have ſterling merit when it is praiſed by La Croze.

140 The ſchiſm of the Armenians is placed 84 years after the council of Chalcedon (Pagi, Critica, ad A. D. 535). It was conſummated at the end of ſeventeen years; and it is from the year of Chriſt 552 that we date the æra of the Armenians (l'Art de verifier les Dates, p. xxxv.).

141 The ſentiments and ſucceſs of Julian of Halicarnaſſus may be ſeen in Liberatus (Brev. c. 19.), Renaudot (Hiſt. Patriarch. Alex. p. 132. 303.), and Aſſemannus (Bibliot. Orient. tom. ii. Diſſertat. de Monophyſitis, p. viii. p. 286.).

rive much glory from the learning or the power of its inhabitants. The royalty expired with the origin of their ſchiſm, and their Chriſtian kings, who aroſe and fell in the thirteenth century on the confines of Cilicia, were the clients of the Latins and the vaſſals of the Turkiſh ſultan of Iconium. The helpleſs nation has ſeldom been permitted to enjoy the tranquillity of ſervitude. From the earlieſt period to the preſent hour, Armenia has been the theatre of perpetual war; the lands between Tauris and Erivan were diſpeopled by the cruel policy of the Sophies; and myriads of Chriſtian families were tranſplanted, to periſh or to propagate in the diſtant provinces of Perſia. Under the rod of oppreſſion, the zeal of the Armenians is fervent and intrepid: they have often preferred the crown of martyrdom to the white turban of Mahomet; they devoutly hate the error and idolatry of the Greeks; and their tranſient union with the Latins is not leſs devoid of truth, than the thouſand biſhops whom their patriarch offered at the feet of the Roman pontiff[142]. The *catholic* or patriarch of the Armenians reſides in the monaſtery of Ekmiaſin, three leagues from Erivan. Forty-ſeven archbiſhops, each of whom may claim the obedience of four or five ſuffragans, are conſecrated by his hand; but the far greater part are only titular prelates, who dignify with their preſence and ſervice the ſim-

[142] See a remarkable fact of the xiith century in the Hiſtory of Nicetas Choniates (p. 258.). Yet three hundred years before, Photius (Epiſtol. ii. p. 49. edit. Montacul) had gloried in the converſion of the Armenians—λατρευει σημερον ορθοδοξως.

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plicity of his court. As ſoon as they have performed the liturgy, they cultivate the garden; and our biſhops will hear with ſurpriſe, that the auſterity of their life increaſes in juſt proportion to the elevation of their rank. In the fourſcore thouſand towns or villages of his ſpiritual empire, the patriarch receives a ſmall and voluntary tax from each perſon above the age of fifteen; but the annual amount of ſix hundred thouſand crowns is inſufficient to ſupply the inceſſant demands of charity and tribute. Since the beginning of the laſt century, the Armenians have obtained a large and lucrative ſhare of the commerce of the Eaſt: in their return from Europe, the caravan uſually halts in the neighbourhood of Erivan, the altars are enriched with the fruits of their patient induſtry; and the faith of Eutyches is preached in their recent congregations of Barbary and Poland [143].

V. THE COPTS OR EGYPTIANS.

V. In the reſt of the Roman empire, the deſpotiſm of the prince might eradicate or ſilence the ſectaries of an obnoxious creed. But the ſtubborn temper of the Egyptians maintained their oppoſition to the ſynod of Chalcedon, and the policy of Juſtinian condeſcended to expect and to ſeize the opportunity of diſcord. The Monophyſite church

[143] The travelling Armenians are in the way of every traveller, and their mother church is on the high-road between Conſtantinople and Iſpahan: for their preſent ſtate, ſee Fabricius (Lux Evangelii, &c. c. xxxviii. p. 40—51.), Olearius (l. iv. c. 40), Chardin (vol. ii. p. 232.), Tournefort (lettre xx.), and, above all, Tavernier (tom. i. p. 28—37. 510—518.), that rambling jeweller, who had read nothing, but had ſeen ſo much and ſo well.

of

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of Alexandria [144] was torn by the diſputes of the *corruptibles* and *incorruptibles*, and on the death of the patriarch, the two factions upheld their reſpective candidates [145]. Gaian was the diſciple of Julian, Theodoſius had been the pupil of Severus: the claims of the former were ſupported by the conſent of the monks and ſenators, the city and the province; the latter depended on the priority of his ordination, the favour of the empreſs Theodora, and the arms of the eunuch Narſes, which might have been uſed in more honourable warfare. The exile of the popular candidate to Carthage and Sardinia, inflamed the ferment of Alexandria; and after a ſchiſm of one hundred and ſeventy years, the *Gaianites* ſtill revered the memory and doctrine of their founder. The ſtrength of numbers and of diſcipline was tried in a deſperate and bloody conflict; the ſtreets were filled with the dead bodies of citizens and ſoldiers; the pious women, aſcending the roofs of their houſes, ſhowered down every ſharp or ponderous utenſil on the heads of the enemy; and the final victory of Narſes was owing to the flames, with which he waſted the third capital of the Roman world. But the lieutenant of Juſtinian had not conquered in the cauſe of an heretic; Theodoſius himſelf was ſpeedily though gently removed; and Paul of Tanis, an orthodox monk, was raiſed to the throne of Athanaſius. The powers of govern-

The patriarch Theodoſius, A. D. 537—568.

Paul, A.D. 538.

[144] The hiſtory of the Alexandrian patriarchs, from Dioſcorus to Benjamin, is taken from Renaudot (p. 114—164.) and the ſecond tome of the Annals of Eutychius.

[145] Liberat. Brev. c. 20. 23. Victor. Chron. p. 329, 330. Procop. Anecdot. c. 26, 27.

ment

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ment were ſtrained in his ſupport; he might appoint or diſplace the dukes and tribunes of Egypt; the allowance of bread which Diocletian had granted, was ſuppreſſed, the churches were ſhut, and a nation of ſchiſmatics was deprived at once of their ſpiritual and carnal food. In his turn, the tyrant was excommunicated by the zeal and revenge of the people; and none except his ſervile Melchites would ſalute him as a man, a Chriſtian, or a biſhop. Yet ſuch is the blindneſs of ambition, that, when Paul was expelled on a charge of murder, he ſolicited, with a bribe of ſeven hundred pounds of gold, his reſtoration to the ſame ſtation of hatred and ignominy. His ſucceſſor Apollinaris entered the hoſtile city in military array, alike qualified for prayer or for battle. His troops, under arms, were diſtributed through the ſtreets; the gates of the cathedral were guarded, and a choſen band was ſtationed in the choir to defend the perſon of their chief. He ſtood erect on his throne, and throwing aſide the upper garment of a warrior, ſuddenly appeared before the eyes of the multitude in the robes of patriarch of Alexandria. Aſtoniſhment held them mute; but no ſooner had Apollinaris begun to read the tome of St. Leo, than a volley of curſes, and invectives, and ſtones, aſſaulted the odious miniſter of the emperor and the ſynod. A charge was inſtantly ſounded by the ſucceſſor of the apoſtles; the ſoldiers waded to their knees in blood; and two hundred thouſand Chriſtians are ſaid to have fallen by the ſword: an incredible account, even if it be extended from the ſlaughter of a day to the eighteen years of the reign of Apollinaris. Two ſucceeding

Apollinaris, A. D. 551.

patriarchs,

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patriarchs, Eulogius [146] and John [147], laboured in the converſion of heretics, with arms and arguments more worthy of their evangelical profeſſion. The theological knowledge of Eulogius was diſplayed in many a volume, which magnified the errors of Eutyches and Severus, and attempted to reconcile the ambiguous language of St. Cyril with the orthodox creed of pope Leo and the fathers of Chalcedon. The bounteous alms of John the eleemoſynary were dictated by ſuperſtition, or benevolence, or policy. Seven thouſand five hundred poor were maintained at his expence; on his acceſſion, he found eight thouſand pounds of gold in the treaſury of the church; he collected ten thouſand from the liberality of the faithful; yet the primate could boaſt in his teſtament, that he left behind him no more than the third part of the ſmalleſt of the ſilver coins. The churches of Alexandria were delivered to the Catholics, the religion of the Monophyſites was proſcribed in Egypt, and a law was revived which excluded the natives from the honours and emoluments of the ſtate.

Eulogius, A.D. 580.

John, A.D. 609.

[146] Eulogius, who had been a monk of Antioch, was more conſpicuous for ſubtlety than eloquence. He proves that the enemies of the faith, the Gaianites and Theodoſians, ought not to be reconciled; that the ſame propoſition may be orthodox in the mouth of St. Cyril, heretical in that of Severus; that the oppoſite aſſertions of St. Leo are equally true, &c. His writings are no longer extant, except in the Extracts of Photius, who had peruſed them with care and ſatisfaction, cod. ccviii, ccxxv, ccxxvi, ccxxvii. ccxxx. cclxxx.

[147] See the life of John the eleemoſynary by his contemporary Leontius, biſhop of Neapolis in Cyprus, whoſe Greek text, either loſt or hidden, is reflected in the Latin verſion of Baronius (A. D. 610, N° 9. A. D. 620, N° 8.). Pagi (Critica, tom. ii. p. 763.) and Fabricius (l. v. c. 11. tom. vii. p. 454.) have made ſome critical obſervations.

A more

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Their ſeparation and decay.

A more important conqueſt ſtill remained, of the patriarch, the oracle and leader of the Egyptian church. Theodoſius had reſiſted the threats and promiſes of Juſtinian with the ſpirit of an apoſtle or an enthuſiaſt. "Such," replied the patriarch, "were the offers of the tempter when he "ſhewed the kingdoms of the earth. But my "ſoul is far dearer to me than life or dominion. "The churches are in the hands of a prince who "can kill the body; but my conſcience is my "own; and in exile, poverty, or chains, I will "ſtedfaſtly adhere to the faith of my holy prede-"ceſſors, Athanaſius, Cyril, and Dioſcorus. "Anathema to the tome of Leo and the ſynod of "Chalcedon! Anathema to all who embrace their "creed! Anathema to them now and for ever-"more! Naked came I out of my mother's "womb, naked ſhall I deſcend into the grave. "Let thoſe who love God, follow me and ſeek "their ſalvation." After comforting his brethren, he embarked for Conſtantinople, and ſuſtained, in ſix ſucceſſive interviews, the almoſt irreſiſtible weight of the royal preſence. His opinions were favourably entertained in the palace and the city; the influence of Theodora aſſured him a ſafe conduct and honourable diſmiſſion; and he ended his days, though not on the throne, yet in the boſom, of his native country. On the news of his death, Apollinaris indecently feaſted the nobles and the clergy; but his joy was checked by the intelligence of a new election; and while he enjoyed the wealth of Alexandria, his rivals reigned in the monaſteries

monaſteries of Thebais, and were maintained by the voluntary oblations of the people. A perpetual ſucceſſion of patriarchs aroſe from the aſhes of Theodoſius; and the Monophyſite churches of Syria and Egypt were united by the name of Jacobites and the communion of the faith. But the ſame faith, which has been confined to a narrow ſect of the Syrians, was diffuſed over the maſs of the Egyptian or Coptic nation; who, almoſt unanimouſly, rejected the decrees of the ſynod of Chalcedon. A thouſand years were now elapſed ſince Egypt had ceaſed to be a kingdom, ſince the conquerors of Aſia and Europe had trampled on the ready necks of a people, whoſe ancient wiſdom and power aſcends beyond the records of hiſtory. The conflict of zeal and perſecution rekindled ſome ſparks of their national ſpirit. They abjured, with a foreign hereſy, the manners and language of the Greeks: every Melchite, in their eyes, was a ſtranger, every Jacobite a citizen; the alliance of marriage, the offices of humanity, were condemned as a deadly ſin; the natives renounced all allegiance to the emperor; and his orders, at a diſtance from Alexandria, were obeyed only under the preſſure of military force. A generous effort might have redeemed the religion and liberty of Egypt, and her ſix hundred monaſteries might have poured forth their myriads of holy warriors, for whom death ſhould have no terrors, ſince life had no comfort or delight. But experience has proved the diſtinction of active and paſſive courage; the fanatic who endures without a groan the

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torture of the rack or the ſtake, would tremble and fly before the face of an armed enemy. The puſillanimous temper of the Egyptians could only hope for a change of maſters; the arms of Choſroes depopulated the land, yet under his reign the Jacobites enjoyed a ſhort and precarious reſpite. The victory of Heraclius renewed and aggravated the perſecution, and the patriarch again eſcaped from Alexandria to the deſert. In his flight, Benjamin was encouraged by a voice, which bad him expect, at the end of ten years, the aid of a foreign nation, marked like the Egyptians themſelves with the ancient rite of circumciſion. The character of theſe deliverers, and the nature of the deliverance, will be hereafter explained; and I ſhall ſtep over the interval of eleven centuries to obſerve the preſent miſery of the Jacobites of Egypt. The populous city of Cairo affords a reſidence or rather a ſhelter for their indigent patriarch, and a remnant of ten biſhops: forty monaſteries have ſurvived the inroads of the Arabs; and the progreſs of ſervitude and apoſtaſy has reduced the Coptic nation to the deſpicable number of twenty-five or thirty thouſand families [148]; a race of illiterate beggars, whoſe only conſolation is derived from the ſuperior wretchedneſs of the

Benjamin, the Jacobite patriarch, A. D. 625—661.

[148] This number is taken from the curious Recherches ſur les Egyptiens et les Chinois (tom. ii. p. 192, 193.), and appears more probable than the 600,000 ancient, or 15,000 modern, Copts of Gemelli Carreri. Cyril Lucar, the proteſtant patriarch of Conſtantinople, laments that thoſe heretics were ten times more numerous than his orthodox Greeks, ingeniouſly applying the πολλαι κιν δεκαδες δευσιατο συοχοιο of Homer (Iliad ii. 128.), the moſt perfect expreſſion of contempt (Fabric. Lux Evangelii, 740.).

Greek

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Greek patriarch and his diminutive congregation [149].

VI. The Coptic patriarch, a rebel to the Cæſars, or a ſlave to the khalifs, ſtill gloried in the filial obedience of the kings of Nubia and Æthiopia. He repaid their homage by magnifying their greatneſs; and it was boldly aſſerted that they could bring into the field an hundred thouſand horſe, with an equal number of camels [150]; that their hand could pour or reſtrain the waters of the Nile [151]; and the peace and plenty of Egypt was obtained, even in this world, by the interceſſion of the patriarch. In exile at Conſtantinople, Theodoſius recommended to his patroneſs the converſion of the black nations of Nubia [152], from the tropic of

VI. THE ABYSSINIANS AND NUBIANS.

149 The hiſtory of the Copts, their religion, manners, &c. may be found in the Abbé Renaudot's motley work, neither a tranſlation nor an original; the Chronicon Orientale of Peter, a Jacobite; in the two verſions of Abraham Ecchellenſis, Paris, 1651; and John Simon Aſſeman, Venet. 1729. Theſe annals deſcend no lower than the xiiith century. The more recent accounts muſt be ſearched for in the travellers into Egypt, and the Nouveaux Memoires des Miſſions de Levant. In the laſt century, Joſeph Abudacnus, a native of Cairo, publiſhed at Oxford, in thirty pages, a ſlight Hiſtoria Jacobitarum, 147. poſt 150.

150 About the year 737. See Renaudot, Hiſt. Patriarch. Alex. p. 221, 222. Elmacin, Hiſt. Saracen. p. 99.

151 Ludolph, Hiſt. Æthiopic. et Comment. l. i. c. 8. Renaudot, Hiſt. Patriarch. Alex. p. 480, &c. This opinion, introduced into Egypt and Europe by the artifice of the Copts, the pride of the Abyſſinians, the fear and ignorance of the Turks and Arabs, has not even the ſemblance of truth. The rains of Æthiopia do not, in the increaſe of the Nile, conſult the will of the monarch. If the river approaches at Napata, within three days journey of the Red Sea (ſee d'Anville's Maps), a canal that ſhould divert its courſe would demand, and moſt probably ſurpaſs, the power of the Cæſars.

152 The Abyſſinians, who ſtill preſerve the features and olive complexion of the Arabs, afford a proof that two thouſand years are not

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of Cancer to the confines of Abyſſinia. Her deſign was ſuſpected and emulated by the more orthodox emperor. The rival miſſionaries, a Melchite and a Jacobite, embarked at the ſame time; but the empreſs, from a motive of love or fear, was more effectually obeyed; and the Catholic prieſt was detained by the preſident of Thebais, while the king of Nubia and his court were haſtily baptiſed in the faith of Dioſcorus. The tardy envoy of Juſtinian was received and diſmiſſed with honour; but when he accuſed the hereſy and treaſon of the Egyptians, the negro convert was inſtructed to reply that he would never abandon his brethren the true believers, to the perſecuting miniſters of the ſynod of Chalcedon [153]. During ſeveral ages, the biſhops of Nubia were named and conſecrated by the Jacobite patriarch of Alexandria: as late as the twelfth century, Chriſtianity prevailed; and ſome rites, ſome ruins, are ſtill viſible in the ſavage towns of Sennaar and Dongola [154]. But the Nu-

not ſufficient to change the colour of the human race. The Nubians, an African race, are pure negroes, as black as thoſe of Senegal or Congo, with flat noſes, thick lips, and woolly hair (Buffon, Hiſt. Naturelle, tom. v. p. 117. 143, 144. 166. 219. edit. in 12mo, Paris, 1769). The ancients beheld, without much attention, the extraordinary phænomenon which has exerciſed the philoſophers and theologians of modern times.

153 Aſſeman. Bibliot. Orient. tom. i. p. 329.

154 The Chriſtianity of the Nubians, A. D. 1153, is atteſted by the ſheriff al Edriſi, falſely deſcribed under the name of the Nubian geographer (p. 18.), who repreſents them as a nation of Jacobites. The rays of hiſtorical light that twinkle in the hiſtory of Renaudot (p. 178. 220—224. 281—286. 405. 434. 451. 464.) are all previous to this æra. See the modern ſtate in the Lettres Edifiantes (Recueil, iv.) and Buſching (tom. ix. p. 152—159. par Berenger).

bians

bians at length executed their threats of returning to the worſhip of idols; the climate required the indulgence of polygamy, and they have finally preferred the triumph of the Koran to the abaſement of the Croſs. A metaphyſical religion may appear too refined for the capacity of the negro race: yet a black or a parrot might be taught to repeat the *words* of the Chalcedonian or Monophyſite creed.

Church of Abyſſinia, A. D. 530, &c.

Chriſtianity was more deeply rooted in the Abyſſinian empire; and, although the correſpondence has been ſometimes interrupted above ſeventy or an hundred years, the mother-church of Alexandria retains her colony in a ſtate of perpetual pupillage. Seven biſhops once compoſed the Æthiopic ſynod: had their number amounted to ten, they might have elected an independent primate, and one of their kings was ambitious of promoting his brother to the eccleſiaſtical throne. But the event was foreſeen, the increaſe was denied; the epiſcopal office has been gradually confined to the *abuna*[155], the head and author of the Abyſſinian prieſthood; the patriarch ſupplies each vacancy with an Egyptian monk; and the character of a ſtranger appears more venerable in the eyes of the people, leſs dangerous in thoſe of the

[155] The abuna is improperly dignified by the Latins with the title of patriarch. The Abyſſinians acknowledge only the four patriarchs, and their chief is no more than a metropolitan or national primate (Ludolph. Hiſt. Æthiopic. et Comment. l. iii. c. 7.). The ſeven biſhops of Renaudot (p. 511.), who exiſted A. D. 1131, are unknown to the hiſtorian.

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monarch. In the ſixth century, when the ſchiſm of Egypt was confirmed, the rival chiefs, with their patrons, Juſtinian and Theodora, ſtrove to outſtrip each other in the conqueſt of a remote and independent province. The induſtry of the empreſs was again victorious; and the pious Theodora has eſtabliſhed in that ſequeſtered church the faith and diſcipline of the Jacobites [156]. Encompaſſed on all ſides by the enemies of their religion, the Æthiopians ſlept near a thouſand years, forgetful of the world, by whom they were forgotten. They were awakened by the Portugueſe, who, turning the ſouthern promontory of Africa, appeared in India and the Red Sea, as if they had deſcended through the air from a diſtant planet. In the firſt moments of their interview, the ſubjects of Rome and Alexandria obſerved the reſemblance, rather than the difference, of their faith; and each nation expected the moſt important benefits from an alliance with their Chriſtian brethren. In their lonely ſituation, the Æthiopians had almoſt relapſed into the ſavage life. Their veſſels, which had traded to Ceylon, ſcarcely preſumed to navigate the rivers of Africa; the ruins of Axume were deſerted, the nation was ſcattered in villages, and the emperor, a pompous name, was content,

The Portugueſe in Abyſſinia, A. D. 1525—1550, &c.

[156] I know not why Aſſemannus (Bibliot. Orient. tom. ii. p. 384.) ſhould call in queſtion theſe probable miſſions of Theodora into Nubia and Æthiopia. The ſlight notices of Abyſſinia till the year 1500 are ſupplied by Renaudot (p. 336—341. 381, 382. 405. 443, &c. 452. 456. 463. 475. 480. 511. 525. 559—564.) from the Coptic writers. The mind of Ludolphus was a perfect blank.

both

both in peace and war, with the immoveable reſidence of a camp. Conſcious of their own indigence, the Abyſſinians had formed the rational project of importing the arts and ingenuity of Europe [157]; and their ambaſſadors at Rome and Liſbon were inſtructed to ſolicit a colony of ſmiths, carpenters, tilers, maſons, printers, ſurgeons, and phyſicians, for the uſe of their country. But the public danger ſoon called for the inſtant and effectual aid of arms and ſoldiers to defend an unwarlike people from the Barbarians who ravaged the inland country, and the Turks and Arabs who advanced from the ſea-coaſt in more formidable array. Æthiopia was ſaved by four hundred and fifty Portugueſe, who diſplayed in the field the native valour of Europeans, and the artificial powers of the muſquet and cannon. In a moment of terror, the emperor had promiſed to reconcile himſelf and his ſubjects to the Catholic faith; a Latin patriarch repreſented the ſupremacy of the pope [158]; the empire, enlarged in a tenfold proportion, was ſuppoſed to contain more gold than the mines of America; and the wildeſt hopes of avarice and

157 Ludolph. Hiſt. Æthiop. l. iv. c. 5. The moſt neceſſary arts are now exerciſed by the Jews, and the foreign trade is in the hands of the Armenians. What Gregory principally admired and envied was the induſtry of Europe—artes et opificia.

158 John Bermudez, whoſe relation, printed at Liſbon, 1569, was tranſlated into Engliſh by Purchas (Pilgrims, l. vii. c. 7. p. 1149, &c.), and from thence into French by La Croze (Chriſtianiſme d'Ethiopie, p. 92—265). The piece is curious; but the author may be ſuſpected of deceiving Abyſſinia, Rome, and Portugal. His title to the rank of patriarch is dark and doubtful (Ludolph. Comment. N° 101. p. 473.).

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Miſſion of the Jeſuits, A. D. 1557.

zeal were built on the willing ſubmiſſion of the Chriſtians of Africa.

But the vows which pain had extorted, were forſworn on the return of health. The Abyſſinians ſtill adhered with unſhaken conſtancy to the Monophyſite faith; their languid belief was inflamed by the exerciſe of diſpute; they branded the Latins with the names of Arians and Neſtorians, and imputed the adoration of *four* gods, to thoſe who ſeparated the two natures of Chriſt. Fremona, a place of worſhip, or rather of exile, was aſſigned to the Jeſuit miſſionaries. Their ſkill in the liberal and mechanic arts, their theological learning, and the decency of their manners, inſpired a barren eſteem; but they were not endowed with the gift of miracles [159], and they vainly ſolicited a reinforcement of European troops. The patience and dexterity of forty years, at length obtained a more favourable audience, and two emperors of Abyſſinia were perſuaded that Rome could enſure the temporal and everlaſting happineſs of her votaries. The firſt of theſe royal converts loſt his crown and his life; and the rebel army was ſanctified by the *abuna*, who hurled an anathema at the apoſtate, and abſolved his ſubjects from their oath of fidelity. The fate of Zadenghel was revenged by the courage and fortune of Suſneus, who aſcended the throne under the name of Se-

[159] Religio Romana .... nec precibus patrum nec miraculis ab ipſis editis ſuffulciebatur, is the uncontradicted aſſurance of the devout emperor Suſneus to his patriarch Mendez (Ludolph. Comment. N° 126 p. 529.); and ſuch aſſurances ſhould be preciouſly kept as an antidote againſt any marvellous legends.

gued,

gued, and more vigorouſly proſecuted the pious enterpriſe of his kinſman. After the amuſement of ſome unequal combats between the Jeſuits and his illiterate prieſts, the emperor declared himſelf a proſelyte to the ſynod of Chalcedon, preſuming that his clergy and people would embrace without delay the religion of their prince. The liberty of choice was ſucceeded by a law, which impoſed, under pain of death, the belief of the two natures of Chriſt: the Abyſſinians were enjoined to work and to play on the Sabbath; and Segued, in the face of Europe and Africa, renounced his connection with the Alexandrian church. A Jeſuit, Alphonſo Mendez, the Catholic patriarch of Æthiopia, accepted in the name of Urban VIII. the homage and abjuration of his penitent. "I confeſs," ſaid the emperor on his knees, "I confeſs that the pope is the vicar of Chriſt, the ſucceſſor of St. Peter, and the ſovereign of the world. To him I ſwear true obedience, and at his feet I offer my perſon and kingdom." A ſimilar oath was repeated by his ſon, his brother, the clergy, the nobles, and even the ladies of the court: the Latin patriarch was inveſted with honours and wealth; and his miſſionaries erected their churches or citadels in the moſt convenient ſtations of the empire. The Jeſuits themſelves deplore the fatal indiſcretion of their chief, who forgot the mildneſs of the goſpel and the policy of his order, to introduce with haſty violence the liturgy of Rome and the inquiſition of Portugal. He condemned the ancient practice of circumciſion,

Converſion of the emperor, A. D. 1626.

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which health rather than ſuperſtition had firſt invented in the climate of Æthiopia [160]. A new baptiſm, a new ordination was inflicted on the natives; and they trembled with horror when the moſt holy of the dead were torn from their graves, when the moſt illuſtrious of the living were excommunicated by a foreign prieſt. In the defence of their religion and liberty, the Abyſſinians roſe in arms with deſperate but unſucceſsful zeal. Five rebellions were extinguiſhed in the blood of the inſurgents: two abunas were ſlain in battle, whole legions were ſlaughtered in the field, or ſuffocated in their caverns; and neither merit, nor rank, nor ſex, could ſave from an ignominious death the enemies of Rome. But the victorious monarch was finally ſubdued by the conſtancy of the nation, of his mother, of his ſon, and of his moſt faithful friends. Segued liſtened to the voice of pity, of reaſon, perhaps of fear; and his edict of liberty of conſcience inſtantly revealed the tyranny and weakneſs of the Jeſuits. On the death of his father, Baſilides expelled the Latin patriarch, and reſtored to the wiſhes of the nation the faith and the diſcipline

160 I am aware how tender is the queſtion of circumciſion. Yet I will affirm, 1. That the Æthiopians have a phyſical reaſon for the circumciſion of males, and even of females (Recherches Philoſophiques ſur les Americains, tom. ii.). 2. That it was practiſed in Æthiopia long before the introduction of Judaiſm or Chriſtianity (Herodot. l. ii. c. 104. Marſham, Canon. Chron. p. 72, 73). "Infantes circumcidunt ob conſuetudinem non ob Judaiſmum," ſays Gregory the Abyſſinian prieſt (apud Fabric. Lux Chriſtiana, p. 720.). Yet, in the heat of diſpute, the Portugueſe were ſometimes branded with the name of *uncircumciſed* (La Croze, p. 80. Ludolph. Hiſt. and Comment. l. iii. c. 1.).

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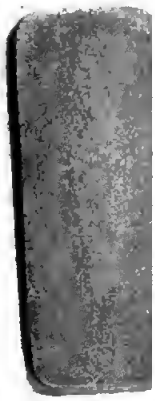
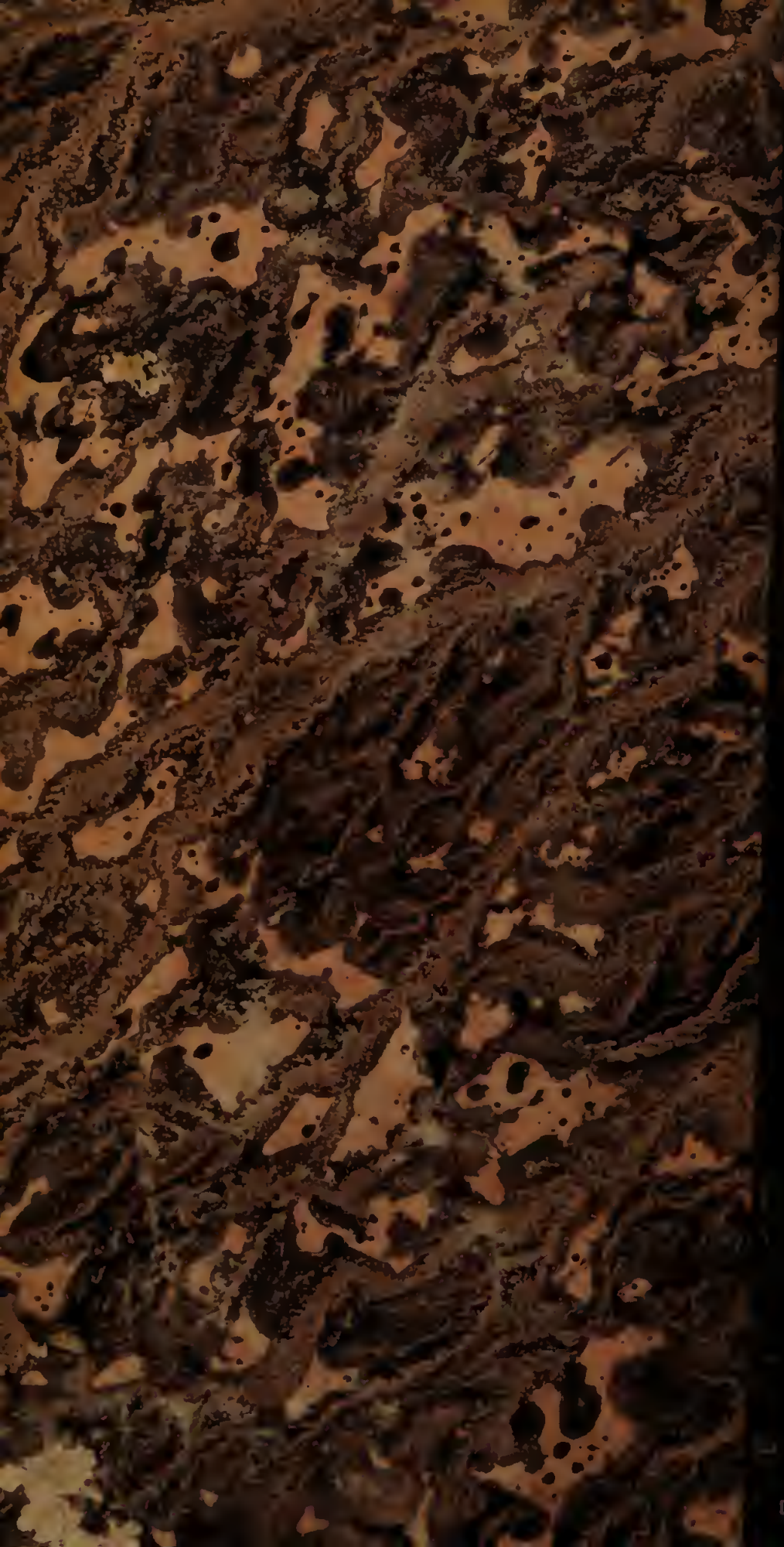
Final expulſion of the Jeſuits, A. D. 1632, &c.

of Egypt. The Monophyſite churches reſounded with a ſong of triumph, "that the ſheep of Æthiopia were now delivered from the hyænas of the "Weſt;" and the gates of that ſolitary realm were for ever ſhut againſt the arts, the ſcience, and the fanaticiſm of Europe [161].

[161] The three proteſtant hiſtorians, Ludolphus (Hiſt. Æthiopica, Francofurt. 1681; Commentarius, 1691; Relatio Nova, &c. 1693, in folio), Geddes (Church Hiſtory of Æthiopia, London, 1696, in 8vo), and La Croze (Hiſt. du Chriſtianiſme d'Ethiopie et d'Armenie, La Haye, 1739, in 12mo), have drawn their principal materials from the Jeſuits, eſpecially from the General Hiſtory of Tellez, publiſhed in Portugueſe at Conimbra, 1660. We might be ſurpriſed at their frankneſs; but their moſt flagitious vice, the ſpirit of perſecution, was in their eyes the moſt meritorious virtue. Ludolphus poſſeſſed ſome, though a ſlight, advantage from the Æthiopic language, and the perſonal converſation of Gregory, a free-ſpirited Abyſſinian prieſt, whom he invited from Rome to the court of Saxe-Gotha. See the Theologia Æthiopica of Gregory, in Fabricius, Lux Evangelii, p. 716—734.

END OF THE EIGHTH VOLUME.

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